| Herbert H. Bateman Papers | Coal and Energy Commission - 1980 (9): Oil and gas statistics of Arkansas, Louisiana, and Mississippi, used as background material by Oil and Gas Subcommittee of Coal & Energy Commission |
Mr. Phil Cates  
Regional Coordinator  
Governmental Affairs  
Tenneco Inc.  
P. O. Box 2511  
Houston, Texas 77001

Dear Phil:

Enclosed you will find copy of materials which were made available to members of the oil and gas subcommittee of the Virginia Coal and Energy Commission at its meeting on December 8, 1980, which I send on for your information.

The subcommittee, at the urging of representatives of the oil and gas industry and the coal industry, is falling back and will not be making any legislative proposal at the 1981 session of the General Assembly.

A "technical committee" of coal industry and oil and gas industry representatives will be trying to develop an inventory of problem areas in the interfacing of coal mining operations with drilling for oil and natural gas, along with suggested methods for dealing with points of conflict in a legislative context. This will undoubtedly prove to be very interesting and I would hope that I might have the benefit of as much expert advice as possible as we are presented with legislative alternatives.

With best personal regards, I remain

Sincerely,

Herbert H. Bateman

Enclosures  
HBB/drb

cc: Robert Terrell, Governmental Affairs Dept.,  
Newport News Shipbuilding & Dry Dock Co.
The oil and gas statutes of five states are summarized herein. The selected states are Oklahoma, West Virginia, Arkansas, Louisiana, and Mississippi. Certain essential provisions of law are contained in the statutes of each state, the most important for our purposes being those relating to unitization, pooling, and well spacing. Other provisions common to each state deal with prohibition of waste, penalties, and declaration of policy.

The following sections summarize the provisions on unitization, pooling, and spacing. Page numbers, relating to the document of a particular state, accompany each summary.

UNITIZATION

Oklahoma

p. 3109. The order of the Commission shall define the area of the common source of supply or portion thereof to be included within the unit area and prescribe with reasonable detail the plan of unitization applicable thereto.

West Virginia

p. 93-95. After one deep well has been drilled establishing a pool, an application to establish drilling units may be filed with the Commissioner by the operator.

Arkansas

p. 293. For the prevention of waste and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the Commission shall establish a drilling unit or units for each pool.
A drilling unit means the maximum area which may be efficiently and economically drained by one well.

**Louisiana**

p. [11]. For the prevention of waste and to avoid the drilling of unnecessary wells, the Commissioner shall establish a drilling unit or units for each pool.

**Mississippi**

p. 26. For the prevention of waste, to protect and enforce the correlative rights of owners, and to avoid risks arising from an excessive number of wells, the board shall establish a drilling unit or units for each pool.

**POOLING**

**Oklahoma**

p. 3110. Unitization plan shall not become effective until approved by lessees of 63% of the unit area and by owners of not less than 63% of royalty interests.

**West Virginia**

p. 95. When two or more separately owned tracts are embraced within a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. According to state regulations there must be approval by operators of at least 75% of the acreage and the royalty owners of at least 75% of the acreage.
Arkansas

p. 294. When two or more separately owned tracts are embraced within an established drilling unit, the owners thereof may voluntarily pool, combine, and integrate their tracts or interests for the development or operation of such drilling unit. Must be agreed to by persons holding title to 75% interest in the right to drill and by persons holding title to 75% of the royalties.

Louisiana

p. [7 & 8]. The Commissioner shall have the right to unitize, pool, and consolidate all separately owned tracts and other property ownerships. Pooling requires agreement by 75% of the interest owners and 75% of the royalty owners.

Mississippi

p. 28. When two or more separately owned tracts of land are embraced within an established drilling unit, the person owning the drilling rights therein and the rights to share in the production therefrom may validly agree to integrate their interests and to develop their lands as a drilling unit.

p. 42. Must have agreement of owners or lessees of at least 85% in interest on the basis of and in proportion to the surface acreage content of the unit area and by at least 85% in interest of the royalty owners.
SPACING

Oklahoma

p. 3114. The Commission shall have the power to establish well spacing and drilling units of specified and approximately uniform size and shape.

West Virginia

p. 113. By state regulations each deep well drilled shall be not less than 3000 feet from another deep well and no deep well shall be less than 400 feet from a lease or unit boundary. State law defines "Deep Well" as any well drilled at a depth of or greater than 6000 feet.

p. 130. For all shallow wells with a depth less than 3000 feet, there shall be a minimum distance of 1000 feet from the drilling location to the nearest existing well. For all shallow wells with a depth of 3000 feet or more, there shall be a minimum distance of 1500 feet from the drilling location to the next existing well. "Shallow Well" is defined as any well drilled and completed at a depth of less than 6000 feet.

Arkansas

p. 289. Power to regulate well spacing given to the Commission. p. 293. Each well permitted to be drilled upon any drilling unit shall be drilled approximately in the center thereof.

Louisiana

p. [6]. The Commissioner has the power to regulate well spacing.
Mississippi

p. 61. State regulations specify that the well shall be located at least 1000 feet from every other drilling or producible well, and at least 500 feet from every exterior boundary of the drilling unit.

The configuration and size of drilling units in these states are determined by the regulatory body. Unitization and compulsory pooling are essential parts of modern conservation statutes, according to the Tulane Law Review. Each state surveyed has pooling provisions accompanying their unitization laws. The only differences among the pooling provisions relate to the percentage of operators and royalty owners necessary for a pooling arrangement. The agreement percentages range from 63 percent in Oklahoma to 85 percent in Mississippi, the other states requiring 75 percent.

Spacing requirements in these states are simply noted in the statutes and left to regulation. Arkansas does note, however, that wells shall be drilled approximately in the center of the unit. West Virginia requires different spacing for shallow wells and deep wells. The Mississippi regulations approximate those spacing requirements for West Virginia shallow wells.

There appears to be no significant differences among these states regarding the other essential provisions of oil and gas laws. Provisions on the prohibition of waste and penalties are similar. Every state surveyed, except Louisiana, has a declaration of policy in its oil and gas laws. These policy declarations vary little—each noting the necessity for the prevention of waste, protection of
correlative rights, and development of the resource.

The sharpest contrast to be found is in the West Virginia statute. West Virginia also has a Shallow Gas Well Review Board which has authority to regulate and determine the appropriate placing of shallow wells when gas well operators and owners of coal seams fail to agree on the placing of such wells.

In addition, West Virginia has a special oil and gas conservation tax [p. 100] of three cents for each acre under lease. The tax is paid into a special fund administered by the Commission for carrying out the costs of administration.

Mississippi also levies a special tax [p. 22] to pay for administrative expenses. Unlike West Virginia, this tax is tied to oil and gas production.

If the subcommittee considers new oil and gas legislation, we should consider the proper definition of some terms not found in our current laws. We will probably need to define at least the following terms: pool, field, royalty owner, shallow well, deep well, drilling unit, and correlative rights.
ESSENTIAL PROVISIONS OF OIL AND GAS LAWS IN SELECTED STATES

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* for deep wells. Spacing for shallow wells varies from 1000 feet to 1500 feet from nearest well.
TITLE 53
OIL AND GAS

CHAPTER 1
OIL AND GAS COMMISSION

SECTION.
53-103. Quorum—Voting necessary for adoption of rule or regulation.
53-104. Attorney general as attorney—Duties of prosecuting attorney—Administration of oaths.
53-105. Director of production and conservation—Appointment—Secretary of commission—Duties—Bond.
53-106. Control and regulation of production of oil and gas—Assessment on production—Use of money.
53-107. Purchaser to deduct and remit assessment to commission—Remission by producer.
53-108. Payment of vouchers of commission.
53-110. Waste of oil or gas prohibited.
53-113. Summoning witnesses—Production of documents—Self-incrimination—Procedure in case of refusal to testify or produce documents.
53-101. Declaration of policy.—In recognition of past, present, and imminent evils occurring in the production and use of oil and gas, as a result of waste in the production and use thereof in the absence of co-equal or correlative rights of owners of crude oil or natural gas in a common source of supply to produce and use the same, this law is enacted for the protection of public and private interests against such evils by prohibiting waste and compelling ratable production. [Acts 1939, No. 105, § 1, p. 219.]

Compiler's Note.
The bracketed word "occurring" was inserted by the compiler.

Section to Section Reference.
This act (§§ 53-101—53-126) is referred to in § 84-2111.

Legal Periodicals.
The Legislature and Administrative Concept of Oil and Gas Conservation in Arkansas, 1947-1947, 1 Ark. L. Rev. 296.

Collateral References

Pumping oil, respective rights of adjoining owners as to 5 A. L. R. 421.

Right and remedy of owner whose land is drained of oil or gas which runs to waste through well on land of another 55 A. L. R. 1154.

Stimulation of flow of natural gas by artificial means so as to reduce rent-yielding periods or number of rent-yielding wells, rights as to 12 A. L. R. 1403.

53-102. Creation of commission.—Members—Terms—Oath—Chairman—Office—Meetings—Hearings—Compensation.—There is hereby created the "Oil and Gas Commission," hereinafter in this act (§§ 53-101—53-126) called the "Commission," to be appointed by the Governor immediately after this act takes effect for terms of the following duration: Two (2) members for a term of two (2) years, two (2) members for a term of four (4) years, and three (3) members for a term of six (6) years; provided, that at the expiration of the term for which each of these appointments is made, each successor member shall be appointed for a term of six (6) years, and in event of a vacancy, the Governor shall by appointment fill such unexpired term. All of the members of said commission shall be residents and citizens of the State of Arkansas, at least thirty (30) years of age, a majority of whom shall be experienced in the development, production and transportation of oil and gas. Each member shall qualify by taking an oath of office, and shall hold
office until his successor is appointed and qualified. The Commission
shall elect from its number a Chairman. The Commission shall estab-
lish an office at the County site of some county in Arkansas in which
oil or gas is produced, which place shall be designated by resolution
of the Commission, and at which the records of the Commission shall
be kept. The Commission shall meet or hold hearings at such times
and places as may be found by the Commission to be necessary to carry
out its duties, and each member shall receive as compensation for his
services the sum of $10.00 for each day he attends a meeting or hearing,
and in addition thereto, all necessary traveling expenses. [Acts 1939,
No. 105, § 2, p. 219.]

53-103. Quorum--Votes necessary for adoption of rule or regula-
tion.--A majority of said Commission shall constitute a quorum, and
four [4] affirmative votes shall be necessary for adoption or promulga-
tion of any rule, regulation or order. [Acts 1939, No. 105, § 3, 219.]

53-104. Attorney general acts as attorney--Duties of prosecuting
attorney--Administration of oaths.--The attorney general shall be
attorney for the Commission; provided, that in cases of emergency the
Commission may call upon the prosecuting attorney of the district where
the action is to be brought or defended to represent the Commission
until such time as the attorney general may take charge of the litiga-
tion. Any member of the Commission, or the Secretary thereof, shall
have power to administer oaths to any witness in any hearing, investiga-
tion or proceeding contemplated by this Act [§§ 53-101--53-126] or by
any other law of this state relating to the conservation of oil or gas.
[Acts 1939, No. 105, § 4, p. 219.]

53-105. Director of production and conservation -- Appointment --
Secretary of commission--Duties--Bond.--The Commission may ap-
point one Director of Production and Conservation at a salary not to
exceed $5,000 per annum, and may at its discretion appoint such
other assistants, petroleum and natural gas engineers, bookkeepers,
auditors, gaugers, and stenographers, and other employees as may be
necessary properly to administer and enforce the provisions of this act
[§§ 53-101--53-126.]

The Director of Production and Conservation shall be ex officio Sec-
retary of the Commission and shall keep all minutes and records of the
Commission, and in addition thereto, shall collect and remit to the State
Treasurer all moneys collected. He shall as such Secretary, give bond
in such sum as the Commission, may direct with corporate surety to be
approved by the Commission, conditioned that he will well and truly
account for all funds coming into his hands as such Secretary. [Acts
1939, No. 105, § 5, p. 219.]

Compiler's Note.
The appropriation act of 1917, No. 312
provided a maximum salary of $5,000
for the director.

53-106. Control and regulation of production of oil and gas--Assess-
ment on production--Use of money.--All common sources of supply of
crude oil discovered after January 1, 1937, if so found necessary by the
Commission, shall have the production of oil therefrom controlled or
regulated in accordance with the provisions of this act [§§ 53-101--
55-126], and the Commission is hereby authorized to assess from time
to time against each barrel of oil produced and saved a charge not to
exceed five [5] mills on each barrel. All moneys so collected shall be used solely to pay the expenses and other costs in connection with the administration of this law.

All common sources of supply of natural gas discovered after January 1, 1937, if so found necessary by the commission, shall have the production of gas therefrom controlled or regulated in accordance with the provisions of this act, and the Commission is hereby authorized to assess from time to time against each thousand cubic feet of gas produced and saved from a gas well a charge not to exceed one-half [1/2] mill on each one thousand [1,000] cubic feet of gas. All moneys so collected shall be used solely to pay the expenses and other costs in connection with the administration of this law. [Acts 1939, No. 105, § 6, p. 219.]

NOTES TO DECISIONS

Form of Order.

Emergency shutdown order was not void for failure to contain findings that any of the oil pools affected by it was discovered after January 1, 1937, since order applied only to regulated fields and this statute does not confer jurisdiction to regulate any fields not so discovered. Lion Oil Refining Co. v. Bailey (1959), 200 Ark. 456, 129 S. W. (2d) 683.

53-107. Purchaser to deduct and remit assessment to commission.—Remission by producer.—Any person purchasing oil or gas in this state at the well, under any contract or agreement requiring payments for such production to the respective owners thereof, in respect of which production any sums assessed under the provisions of section 6 [§ 53-106] of this act are payable to the Commission, is hereby authorized, empowered and required to deduct from any sum so payable to any such person the amount due the Commission by virtue of any such assessment and remit that sum to the Commission.

Further, any person taking oil or gas from any well in this state for use or resale, in respect of which production any sums assessed under the provisions of section 6 [§ 53-106] of this act are payable to the Commission, shall remit any sum so due to the Commission in accordance with those rules and regulations of the Commission which may be adopted in regard thereto. [Acts 1939, No. 105, § 7, p. 219.]

53-108. Payment of vouchers of commission.—(There is hereby created in the Treasury Department a special account to be known as the Conservation Fund, and all moneys collected under the provisions of this act [§§ 53-101-53-126], when paid to the State Treasurer shall be deposited to the credit of such fund, and) the State Auditor is hereby directed to honor vouchers drawn by the Chairman of the Commission or the disbursing agent designated by such Commission, and the State Treasurer is directed to pay warrants so issued. Nothing herein shall be construed to authorize the payment of any voucher unless the same has been audited prior to payment, as provided by law. [Acts 1939, No. 105, § 8, p. 219.]

Compiler's Note.

The first part of this section, enclosed in parentheses by the compiler, is deemed superseded by §§ 13-565, 13-512, 13-518, 13-515, which provide that the payment of earnings and assessments of the oil and gas commission should be paid as special revenues into the state appropriation fund, and after certain deductions designated as special revenues for allocation to be distributed to the oil and gas commission fund.

53-109. Definitions.—Unless the context otherwise requires, the words defined in this section shall have the following meaning when found in this act [§§ 53-101-53-126].
A. "Commission" shall mean the Oil and Gas Commission as created by this act.

B. "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind.

C. "Oil" shall mean crude petroleum oil, and other hydro-carbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

D. "Gas" shall mean all natural gas, including casing-head gas, and all other hydro-carbons [hydro-carbons] not defined as oil in subsection C above.

E. "Pool" shall mean an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool" as used herein.

F. "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one pool; and "field" shall include the underground reservoir or reservoirs containing crude petroleum oil, natural gas, or both. The words "field" and "pool" means [mean] the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools.

G. "Owner" shall mean the person who has the right to drill into and to produce from any pool, and to appropriate the production either from [for] himself or for himself and another, or others.

H. "Producer" shall mean the owner of a well or wells capable of producing oil or gas, or both.

I. "Waste" in addition to its ordinary meaning, shall mean "physical waste" as that term is generally understood in the oil and gas industry. It shall include:

1. The inefficient, excessive or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner which results, or tends to result, in reducing the quantity of oil or gas ultimately to be recovered from any pool in this state.

2. The inefficient storing of oil; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.

3. Abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unatural withdrawals causing undue drainage between tracts of land.

4. Producing oil or gas in such manner as to cause unnecessary water channeling or coning.

5. The operation of any oil well or wells with an inefficient gas-oil ratio.

6. The drowning with water of any stratum or part thereof capable of producing oil or gas.

7. Underground waste however caused and whether or not defined.

8. The creation of unnecessary fire hazards.

9. The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount which is necessary in the efficient drilling or operation of the well.
(10). The use of gas for the manufacture of carbon black.

(11). Permitting gas produced from a gas well to escape [escape] into the air.

J. "Product" means any commodity made from oil or gas, and shall include refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.

K. "Illegal oil" shall mean oil which has been produced within the State of Arkansas from any well during any time that such well has produced in excess of the amount allowed by rule, regulation or order of the Commission, as distinguished from oil produced within the State of Arkansas from a well not producing in excess of the amount so allowed, which is "legal oil."

L. "Illegal gas" shall mean gas which has been produced within the State of Arkansas from any well during any time that such well has produced in excess of the amount allowed by rule, regulation or order of the Commission, as distinguished from gas produced within the State of Arkansas from a well not producing in excess of the amount so allowed, which is "legal gas."

M. "Illegal product" shall mean any product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal oil or illegal gas or from any product thereof as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

N. "Tender" shall mean a permit or certificate of clearance for the transportation of oil, gas or products, approved and issued under the authority of the Commission. [Acts 1939, No. 105, § 9, p. 219.]

Compiler's Note.
The bracketed words "hydro-carbons," "for," "escape," and "mean" were inserted by the compiler.

Legal Periodicals.
In Gas Well Royalty, 17 Ark. L. Rev. 104.

Cited:

Intrastate Marketing of Gas, The Implied Covenant to Market and the Shut-

53-110. Waste of oil or gas prohibited.—Waste of oil or gas as defined in this act [§§ 53-101—53-126] is hereby prohibited. [Acts 1939, No. 105, § 10, p. 219.]

NOTES TO DECISIONS

Powers of Commission.
By the fact that this section sweepingly prohibits the waste of oil or gas it does not follow that the general assembly has delegated to the commission the power to impose any means of waste prevention that it may choose. Dobson v. Arkansas Oil and Gas Comm. (1950), 218 Ark. 160, 235 S. W. (2d) 33.

53-111. Powers of commission.—Investigations.—Rules and regulations. —The Commission shall have jurisdiction and authority of and over all persons and property necessary to administer and enforce
effectively the provisions of this act [§§ 53-101–53-126] and all other acts relating to the conservation of oil and gas.

The Commission shall have the authority and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste over which it has jurisdiction exists or is imminent. In the exercise of such power the Commission shall have the authority to collect data; to make investigations and inspections; to examine properties, leases, papers, books and records; to examine, check, test and gauge oil and gas wells, tanks, refineries and means of transportation; to hold hearings; and to provide for the keeping of records and the making of reports; and to take such action as may be reasonably necessary to enforce this act.

The Commission shall have authority to make, after hearing and notice as hereinafter provided, such reasonable rules, regulations and orders as may be necessary from time to time in the proper administration and enforcement of this act, including rules, regulations or orders for the following purposes:

A. To require the drilling, casing and plugging of wells to be done in such a manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water into an oil or gas stratum from a separate stratum; to prevent the pollution of fresh water supplies by oil, gas or salt water; and to require reasonable bond conditioned for the performance of the duty to plug each dry or abandoned well.

B. To require the making of reports showing the location of oil and gas wells, and the filing of logs and drilling records.

C. To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas in paying quantities, and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

D. To require the operation of wells with efficient gas-oil ratios, and to fix such ratios.

E. To prevent “blow outs,” “caving” and “seepage” in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

F. To prevent fires.

G. To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and all storage and transportation equipment and facilities.

H. To regulate the “shooting,” perforating and chemical treatment of wells.

I. To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

J. To limit and prorate the production of oil or gas or both, from any pool or field for the prevention of waste as herein defined.

K. To require, either generally or in or from particulate areas, certificates of clearance or tenders in connection with the transportation of oil or gas.

L. To regulate the spacing of wells and to establish drilling units.

M-1. To prevent, so far as is practical, reasonably avoidable drainage from each developed unit which is not equalized by counter drainage, regarding oil and gas.

M-2. With respect to the drilling of wells for production and disposal of salt water, the Commission shall have jurisdiction and authority of and over all persons and property to the extent necessary to effectively
make and enforce rules, regulations and orders for the following purposes:

(a) To require that the operator shall, before drilling any well in search of salt water or for the injection of salt water into the earth, obtain from the Commission a permit authorizing such drilling.

(b) To require that casing and cementing of supply wells and injection wells be done in accordance with such rules and regulations as may be promulgated by the Commission.

(c) To require the plugging of wells to be done in such a manner so as to prevent the escape of salt water out of one stratum into another; to prevent the intrusion of salt water into an oil and gas stratum and to prevent the pollution of fresh water supplies by salt water.

(d) To require the making of reports showing the completion data, volume of water injected, and the filing of electrical logs of all wells with the Commission.

(e) To regulate the “shooting” and perforating of all wells.

(f) To require the operation of wells in a manner designed to prevent “blow outs,” “caving” and “seepage.”

(g) To physically identify at the site the ownership of all salt water wells, plants, ponds, structures and all storage facilities.

(h) To require the annual payment of $25.00 per well for each salt water well and each well into which debrinated brine is injected. All moneys so collected shall be used solely to pay the expenses and other costs in the administration of this law. [Acts 1939, No. 105, § 1, p. 219; 1969, No. 111, § 1, p. 316.]

Amendment.

The 1968 amendment substituted paragraphs M-1, M-2, for paragraph M, which read: “To prevent, so far as is practical, relatively avoidable drainage from each developed unit which is not equaled by counter-drainage.”

Repealing Clause.

Section 2 of Acts 1929, No. 111 repealed all laws and parts of laws in conflict therewith.

Separability.

Section 6 of Acts 1929, No. 111, read: “If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.”

Emergency.

Section 4 of Acts 1929, No. 111, read: “It is hereby found and determined by the General Assembly that existing laws determining the authority of the Arkansas Oil and Gas Commission to conserve the salt water recursos of the State, do not sufficiently define such authority, and such condition has greatly handicapped the Commission in the proper administration of its duties; therefore, an emergency exists and this Act being necessary for the immediate protection of the public peace, health and safety shall be in full force and effect from and after its passage and approval” Approved February 25, 1929.

Cross-Reference.

Supervisory control of measurement of crude petroleum oil, § 52-502.

Legal Periodicals.

Compulsory Unification of Oil and Gas Pools, 3 Ark. L. Rev. 582.

Some Legal Problems Concerning Horizontal Development of Oil and Gas Strata in Arkansas. 15 Ark. L. Rev. 538.

NOTES TO DECISIONS

Authority of Commission.

This section contains a detailed enumeration of the measures to be used by the commission for conservation purposes, including regulation of secondary recovery through reinjection of gas, but this is not construed to mean that the commission has authority to require the use of such secondary recovery methods contrary to the wishes of the pool owners. Dickinson Oil and Gas Comm. (1950), 218 Ark. 106, 225 S. W. (2d) 33.
Authority of commission to make rules regarding pollution of fresh water through operation of oil wells is not exclusive even if rules are passed by commission, hence courts have jurisdiction to issue mandatory injunction for pollution of creeks. Spartan Drilling Co. v. Bull (1952), 221 Ark. 168, 252 S. W. (2d) 408.

53-112. Rules of procedure—Adoption of rules and regulations—Form—Receiving in evidence—Request for hearing.—A. The Commission shall prescribe its rules of order or procedure in hearings or other proceedings before it under this act [§§ 53-101--53-126], but in all hearings the rules of evidence as established by law shall be applied; provided, however, that the erroneous ruling by the Commission on the admissibility of evidence shall not of itself invalidate any rule, regulation or order.

B. No rules, regulation or order, including change, renewal, or extension thereof, shall, in the absence of an emergency, be made by the Commission under the provisions of this act except after a public hearing upon at least seven [7] days' notice given in the manner and form as may be prescribed by the Commission. Such public hearing shall be held at such time, place and in such manner as may be prescribed by the Commission, and any person having any interest in the subject matter of the hearing shall be entitled to be heard.

C. In the event an emergency is found to exist by the Commission which in its judgment requires the making, changing, renewal or extension of a rule, regulation or order without first having a hearing, such emergency rule, regulation or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation or order permitted by this section shall remain in force no longer than ten [10] days from its effective date, and, in any event, it shall expire when the rule, regulation or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective.

D. Should the Commission elect to give notice by personal service, such service may be made by any officer authorized to serve process or by any agent of the Commission in the same manner as is provided by law for the service of summons in civil actions in the circuit courts of this state. Proof of the service by such agent shall be by the affidavit of the person making personal service.

E. All rules, regulations and orders made by the Commission shall be in writing and shall be entered in full by the Director in a book to be kept for such purpose by the Commission, which book shall be a public record and be open to inspection at all times during reasonable office hours. A copy of such rule, regulation or order, certified by such Director, shall be received in evidence in all courts of this state with the same effect as the original.

F. Any interested person shall have the right to have the Commission call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the Commission by making a request therefor in writing. Upon the receipt of any such request the Commission shall promptly call a hearing thereon, and, after such hearing, and with all convenient speed and in any event within thirty [30] days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate. [Acts 1939, No. 105, § 12, p. 219.]

Cross-Reference.
Service of summons, § 27-303 et seq.
NOTES TO DECISIONS

Constitutionality.

Provision in subsec. C authorizing emergency regulations without hearing was not violative of due process since no rule can be made in the absence of an emergency except after a public hearing on at least seven days' notice and emergency rule order expires automatically in ten days unless sooner terminated. Lion Oil Refining Co. v. Bailey (1940), 200 Ark. 436, 139 S. W. (2d) 688.

Determination of Emergency.

Whether emergency for order existed was for determination of the commission and not the courts, so long as there is substantial evidence to support it and fraud is not shown. Lion Oil Refining Co. v. Bailey (1940), 200 Ark. 436, 139 S. W. (2d) 688.

Form of Emergency Order.

Emergency shutdown order was not void on ground there was no finding therein that waste was being committed or was imminent and that an emergency existed, since order showed on its face that it was made in the interest of conservation, to prevent waste and the commission was acting in an emergency, even though the word "emergency" was not used in the order. Lion Oil Refining Co. v. Bailey (1940), 200 Ark. 436, 139 S. W. (2d) 688.

53.113. Summoning witnesses — Production of documents — Self-incrimination — Procedure in case of refusal to testify or produce documents. — A. The Commission, or any member thereof, is hereby empowered to issue subpoenas for witnesses, to require their attendance and the giving of testimony before it, and to require the production of books, papers, and records in any proceeding before the Commission as may be material upon questions lawfully before the Commission. Such subpoenas shall be served by the sheriff or any other officer authorized by law to serve process in this state. No person shall be excused from attending and testifying, or from producing books, papers and records before the Commission or court, or from obedience to the subpoena of the Commission or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided, that nothing herein contained shall be construed as requiring any person to produce any books, papers or records, or to testify in response to any inquiry, not pertinent to some question lawfully before the Commission or court for determination. No natural person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may be required to testify or produce evidence, documentary or otherwise, before the Commission or court, or in obedience to its subpoena; provided, that no person testifying shall be exempted from prosecution and punishment for perjury committed in so testifying.

B. In case of failure or refusal on the part of any person to comply with any subpoena issued by the Commission or any member thereof, or in case of the refusal of any witness to testify or answer as to any matter regarding which he may be lawfully interrogated, any circuit court in this state, on application of the Commission, may in term time or vacation, issue an attachment for such person and compel him to comply with such subpoena and to attend before the commission and produce such documents, and give his testimony upon such matters, as may be lawfully required, and such court shall have the power to punish for contempt as in case of disobedience of like subpoena issued by or from such court, or for a refusal to testify therein. [Acts 1939, No. 105, § 13, p. 219.]

Cross-Reference.

Officers authorized to serve process, § 27.322.

Legal Periodicals.

Administrative Law in Arkansas, 4 Ark. L. Rev. 107

Documentary Evidence—Arkansas, 15 Ark. L. Rev. 79.
53-114. Pools—Rules and regulations—Drilling units.—A. Whether or not the total production from a pool be limited or prorated, no rule, regulation or order of the Commission shall be such in terms or effect (1) that it shall be necessary at any time for the producer from, or the owner of, a tract of land in the pool, in order that he may obtain such tract’s just and equitable share of the production of such pool, as such share is set forth in this section, to drill and operate any well or wells on such tract in addition to such well or wells as can without waste produce such share, or (2) as to occasion net drainage from a tract unless there be drilled and operated upon such tract a well or wells in addition to such well or wells thereon as can without waste produce such tract’s just and equitable share, as set forth in this section, of the production of such pool.

B. For the prevention of waste and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the Commission shall, after a hearing establish a drilling unit or units for each pool, except in those pools which, prior to the effective date of this act (§§ 53-101—53-126), have been developed to an extent and where conditions are such that it would be impracticable or unreasonable to use a drilling unit at the present stage of development. A drilling unit, as contemplated herein, means the maximum area which may be efficiently and economically drained by one well, and such unit shall constitute a developed unit as long as a well is located thereon which is capable of producing oil or gas in paying quantities.

C. Each well permitted to be drilled upon any drilling unit shall be drilled approximately in the center thereof, with such exception as may be reasonably necessary where it is shown, after notice and upon hearing, and the Commission finds, that the unit is partly outside the pool or, for some other reason, a well approximately in the center of the unit would be non-productive or where topographical conditions are such as to make the drilling approximately in the center of the unit unduly burdensome. Whenever an exception is granted, the Commission shall take such action as will offset any advantage with the person securing the exception may have over other producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract with respect to which the exception is granted will be prevented or minimized and the producer of the well drilled as an exception will be allowed to produce no more than his just and equitable share of the oil and gas in the pool, as such share is set forth in this section.

D. Subject to the reasonable requirements for prevention of waste, a producer’s just and equitable share of the oil and gas in the pool (also sometimes referred to as a tract’s just and equitable share) is that part of the authorized production for the pool (whether it be the total which could be produced without any restriction on the amount of production, or whether it be an amount less than that which the pool could produce if no restriction on amount were imposed) which is substantially in the proportion that the quantity of recoverable oil and gas in the developed area of his tract in the pool bears to the recoverable oil and gas in the total developed area of the pool, in so far as these amounts can be practically ascertained; and to that end, the rules, regulations, permits and orders of the Commission shall be such as will prevent or minimize reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counter drainage), and will give to each producer the opportunity to use his just and equitable share of the reservoir energy. [Acts 1939, No. 105, § 14, p. 219; 1941, No. 305, § 1, p. 773; 1951, No. 28, § 1, p. 50.]
Compiler's Notes.
The bracketed word "were" was inserted by the compiler.
The words in parentheses so appeared in the act.

Amendments.
The 1941 amendment amended the second paragraph of subsec B, (now repealed) by substituting "oil pool in excess of 40 acres" for "pool capable of producing oil, in excess of 40 acres" and added the remainder of the paragraph.
Section 1 of Acts 1951, No. 28, p. 50 repealed the second paragraph of subsection B of this section. Such section read: "Paragraph 2 of Subsection B of Section 14 of Act 105 of the Acts of the General Assembly for the year 1939, as amended by Act 305 of the Acts of the General Assembly for the year 1941, is hereby repealed," said repealed portion read: "It is provided, however, that the Commission shall have no authority to fix a drilling unit as the basis for the development or operation of any oil pool in excess of 40 acres; except where a well has been or shall be drilled on a lease having more than 40 acres, owned by one person, or by persons in moieties, the acreage in excess of 40 acres, but in no event more than 10 acres in excess of 40 acres, upon which such a well is drilled may be used for the purpose of allocating production, where the Commission finds that such an order is reasonably necessary to prevent the drilling of unnecessary wells, and to insure that the owners of such tract covered by said lease may obtain such tract's just and equitable share of the production of said pool."

Repealing Clause.
Section 2 of Acts 1941, No. 305 repealed all laws and parts of laws in conflict therewith.

Emergency.
Section 2 of Acts 1951, No. 28, read: " Whereas, it has been ascertained by the General Assembly that the best interests of the State of Arkansas can be served by the enactment of this legislation, and that it is in the interest of the national defense that this Act be immediately effective; and this Act being necessary for the preservation of the public peace, health and safety of the State of Arkansas, an emergency is hereby declared and this Act shall be in full force from and after its passage." Approved January 30, 1951.

Legal Periodicals.

Comparative Legislation. Pools for production of oil or gas:

NOTES TO DECISIONS

Royalty.
Where the commission had fixed the maximum daily production for each oil well in the field and under later evaluation plan the commission set a blanket allowance for entire pool leaving operators free to decide which wells should be used for production, for reinjection of gas, or to be plugged, royalties should be based on that part of production of producing well that is determined by commission to constitute a withdrawal from tracts making up drilling unit in which operator has an interest and not by the entire production from outlet well where the production had been increased only by reasons of the fact that the particular well had been selected as an outlet, and royalties on the increased production passing through such outlet well should be paid into a common fund that is to be distributed among royalty owners bound by utilization agreement. Dobson v. Arkansas Oil & Gas Comm. (1950), 218 Ark. 160, 235 S. W. (2d) 85.

53-115. Integration of production in drilling units—Allocation of production—Sharing of costs—Limitation on production if no integration—Petition for unit operation—Hearing—Order—Unit expenses—Not in restraint of trade—Salt water disposal units—Establishment—Operations—lien—A-1. (a) When two (2) or more separately owned tracts are embraced within an established drilling unit, or when there are separately owned interests in all or part of such drilling unit, or when there are separately owned tracts and separately owned interests in all or part of such drilling unit, the owners thereof may voluntarily pool, combine and integrate their tracts or interests for the development or operation of such drilling unit.

(b) Where, however, such owners fail or refuse voluntarily to integrate their interests, the Commission, upon the application of any such
owner, shall, for the prevention of waste or to avoid the drilling of un-
necessary wells, enter its order integrating all tracts and interests in
the drilling unit for the development or operation thereof and the shar-
ing of production therefrom. All orders requiring such integration shall
be made after notice and hearing, and shall be upon such terms and condi-
tions as are just and reasonable, and will afford the owner of each
tract or interest in the drilling unit the opportunity to recover or
receive his just and equitable share of the oil and gas in the pool with-
out unnecessary expense and will prevent or minimize reasonably avoid-
able drainage from each developed unit which is not equalized by
counter drainage.

(c) In the event the drilling of a well has not been commenced, or
if commenced, such well has not been completed as a well capable of
producing oil and gas in commercial quantities, on the lands comprising
the drilling unit on the effective date of the order requiring integration,
such order shall authorize the drilling or completion and the equipping
and operation of a well on the drilling unit; shall provide who shall
drill, complete and operate the well; and shall prescribe the time and
manner in which all owners in the drilling unit who may desire to pay
their share of the costs of such operations and participate therein may
elect to do so. Such order shall also provide that an owner who does
not affirmatively elect to participate in the risk and cost of such opera-
tions shall transfer his rights in such drilling unit and the production
from the unit well to the parties who elect to participate therein for a
reasonable consideration and on a reasonable basis, which in the absence
of agreement between the parties, shall be determined by the Com-
mission. Such transfer may be either a permanent transfer or may be
for a limited period pending recoupment out of the share of produc-
tion attributable to the interest of such non-participating owner by the
participating parties of an amount equal to the share of the costs that
would have been borne by such nonparticipating party had he partici-
pated in such operations, plus an additional sum to be fixed by the
Commission.

(d) In the event there is a well capable of producing oil or gas in
commercial quantities on the lands comprising the drilling unit on the
effective date of the order requiring integration, such order shall
authorize the operation thereof; shall provide who shall operate the
well; and shall provide that, within the time stipulated in the order,
any owner in the drilling unit who did not participate in the drilling
of such well shall either reimburse the drilling parties in cash for his
share of the actual cost of drilling, completing and equipping such well,
or shall transfer his rights in such drilling unit and the production from
such well to the drilling parties, until such parties have received out
of the share of production attributable to the interest so transferred an
amount equal to the share of the costs that would have been borne by
the transferring party had he participated in drilling, completing,
equipping and operating said well, plus an additional sum to be fixed
by the Commission.

(e) In the event there is an unleased mineral interest or interests
in any such drilling unit, the owner thereof shall be regarded as the
owner of a royalty interest to the extent of a one-eighth (1/8th) interest
in and to said unleased mineral interest and such royalty interest shall
not be affected by the provisions of subparagraphs (c) and (d) above.

A-2. The order of the Commission creating a drilling unit shall
provide that effective as of the commencement of the drilling of a well
upon such drilling unit, or if a well capable of producing oil and gas
in commercial quantities has already been completed upon some part of
the lands included within such drilling unit, all royalty, overriding royalty, production payment, or similar interests in such drilling unit shall be integrated without the necessity of any additional order or action by the Commission or owners. In the event any such unit includes an unleased mineral interest upon the effective date thereof, one-eighth (1/8th) of such unleased mineral interest shall be deemed as royalty for the purposes of this section [subsection] A-2.

For the purpose of making distribution to the owners of royalty, overriding royalty, production payment or similar interests, there shall be allocated to each tract in such established drilling unit that percentage of the total production from such drilling unit, except any part thereof unavoidably lost or used for production or development purposes, which the area of each such tract bears to the total area of such drilling unit. Such interests shall be paid or delivered to each owner thereof in conformance with the provisions of the appropriate lease, agreement, or contract creating the same, but computed upon the production allocated to each such tract as hereinabove provided, rather than upon the actual production therefrom.

A-3. All operations, including but not limited to the commencement, drilling or operation of a well upon any portion of a drilling unit for which an integration order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract and interest in the drilling unit by the several owners thereof. The portion of the production allocated to the owner of each tract or interest included in a drilling unit formed by an integration order shall, when produced, be considered for all purposes as if it had been produced from such tract or interest by a well drilled thereon.

B. Should the owners of separate tracts embraced within a drilling unit fail to agree upon the integration of the tracts and the drilling of a well on the unit, and should it be established that the Commission is without authority to require integration as provided for in subdivision A of this section, then, subject to all other applicable provisions of this act [§§ 58-101—58-126], the owner of each tract embraced within the drilling unit may drill on his tract but the allowable production from such tract shall be such proportion of the allowable for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

C-1. Upon the filing of a petition as hereinafter provided, the Commission, after notice, shall hold a public hearing to consider the need for the operation as a unit of an entire pool, or any portion thereof, to prevent waste, to increase ultimate recovery of oil and/or gas and to protect correlative rights.

Said petition shall contain the following:
(a) A description of the proposed unit area.
(b) A statement of the nature of the proposed unit operation.
(c) A conformed copy of the proposed unit operating agreement, which may be a composite of executed counterparts of the agreement.

The petition may be filed by one or more persons authorized in the unit operating agreement to file it with the Commission.

C-2. If, after hearing and considering the petition and evidence offered in support thereof, the Commission finds that:
(a) The proposed unit agreement has, or counterparts thereof have, been executed by persons, who, at the time of filing of the petition, owned of record legal title to at least an undivided seventy-five per cent [75%] interest in the right to drill into and produce oil and/or gas from
the total proposed unit area and by persons, who, at that time, owned of
record legal title to seventy-five per cent [75%] of royalty and overriding
royalty payable with respect to oil and/or gas produced from the
entire unit area, and that,

(b) Unit operation of the pool, or any portion thereof, proposed to be
unitized, is reasonably necessary to prevent waste, to increase ultimate
recovery of oil and/or gas and to protect correlative rights, and that,

(c) The value of the additional oil and/or gas to be recovered from
the proposed unit area as a result of the proposed unit operation will ex-
ceed the additional cost incident to conducting such operation, it shall
issue an order requiring unit operation in accordance with the terms of
the proposed unit operating agreement. Such order and the provisions of
the unit operating agreement shall, thereafter, be effective as to and
binding upon each person owning an interest in the unit area, or in oil
and/or gas produced therefrom or the proceeds thereof.

With respect to an interest which is encumbered of record with a
mortgage or deed of trust both the grantor or grantors and grantee
therein shall for the purposes of subparagraph (a) of this subsection
C-2 be considered as the record owner of legal title thereto; provided
that when the instrument gives the grantor or grantors in such mort-
gage or deed of trust the right to execute such a unit agreement the
grantor or grantors shall for said purpose be deemed the record owner
or owners.

C-3. The order requiring unit operation shall be fair and reasonable
under all circumstances and shall include:

(a) A description of the unit area.

(b) An allocation, upon the basis agreed upon by the provisions of
the unit operating agreement, to each separately owned tract in the unit
area, its fair share of all of the oil and/or gas produced from the unit
area and not required or consumed in the conduct of the operation of the
unit area are unavoidably lost. No such allocation formula shall be
adopted by the Commission and put into effect unless it is based on the
relative contribution, other than physical equipment, made by each sepa-
ately owned tract to the unit operation.

(c) A provision for the credits and charges to be made in the adjust-
ment among the owners of the unit area for their respective investments
in wells, tanks, pumps, machinery, materials and equipment contributed
to the unit operation. The net amount charged against the owner or
owners of a separately owned tract shall be considered expenses of unit
operation chargeable against such tract.

(d) A provision that a part of the expenses of unit operation, includ-
ing capital investments, be charged to each separately owned tract in the
same proportion that the tract shares in the unit production. The
expenses chargeable to a tract shall be paid by the person or persons
who, in the absence of unit operation, would be responsible for the
expense of developing and operating such tract.

(e) The time at which the unit operation shall commence.

(f) Those additional provisions, not in conflict with, or inconsistent
with, the unit operating agreement, which the Commission determines
to be appropriate for the prevention of waste and the protection of all
interested parties.

C-4. The obligation or liability of each owner in the several separately
owned tracts for the payment of unit expenses shall at all times be
several and not joint or collective and in no event shall an owner of the
oil and/or gas rights in the separately owned tract be chargeable with,
obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in such separately owned tract pursuant to the plan of unitization.

C-5. The operator or operators may have a lien on all of the property owned by each owner within the unit area to secure the payment of his proportionate part of the expenses of unit operation. Said lien may be established by filing with the circuit clerk of the county in which the property involved, or any part thereof, is located, an affidavit setting forth an itemized statement of the amount due and the interest of the owner in said unit, and may be enforced in the manner as now provided for the enforcement of laborers' liens.

C-6. The Commission, upon the filing of a petition in a form complying with the requirements of subsection C-1, may, after notice and hearing, require unit operation of a pool, or portion thereof, when the unit area newly established embraces a unit area within the same pool established by a previous order of the Commission. In each such case the petition shall be accompanied by a copy of the proposed unit operating agreement with respect to the operation of the unit as so enlarged, in the form meeting the requirements of C-1 (c). In each such instance the unit operating agreement shall be executed by persons owning interests in oil and gas in the entire unitized area so enlarged in sufficient numbers to comply with the requirements of C-2 (a); provided that, if the unit operating agreement then in effect with respect to the unit area to which an additional portion of a pool is to be added contains provisions, under the terms of which additions to the unit area may be made the application for such enlargement of the unitized area need only be accompanied by an agreement, executed by persons owning interests in oil and gas under the area to be added to the unit area in numbers sufficient to comply with the requirements of C-2(a), for the inclusion, in accordance with the plan provided in the unit operating agreement involved, of the additional area to the unit area then existing.

In either such case, such new order, in providing for allocation of unit production from the enlarged unit area, shall first treat the unit area previously established as a single tract, and the portion of unit production so allocated thereto shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportion as those specified therefor in the previous order. In no event shall said new order alter the relative values of tract factors of the previously established unit area, except by consent of all parties owning interests in the tract affected.

An order of the Commission entered under this subsection C-6 shall be effective as to the enlarged unit area and to all persons owning interest in oil and gas therein to the same extent as an order entered under subsection C-2, shall contain provisions with respect to the enlarged unit area to meet the requirements of subsection C-3, and the provisions of subsections C-4 and C-5 shall be applicable to obligations incurred in the operation of the enlarged unit area.

C-7. The portion of oil and/or gas produced from the unit area and allocated to a separately owned tract shall be deemed, for all purposes, to have been actually produced from such tract, and operations for the production of oil and/or gas from any part of the unit area, conducted pursuant to the order of the Commission, shall be deemed, for all purposes, to be operations for the production of oil and/or gas from each separately owned tract in the unit area.

C-8. The formation of such a unit as herein provided and the operation of the unit under order of the Commission shall not be a violation of
any statute of this state relating to trusts, monopolies, contracts or combinations in restraint of trade.

(a) The provisions of C-1 through C-8, inclusive, of this Section 15 shall be applicable to each pool, or any portion thereof, in the State of Arkansas, whether discovered before or after January 1, 1937.

C-9. Where the Commission has received a proper petition praying an order for the operation of an entire pool as a unit, and, after proper hearing and evidence, has issued its order unitizing said pool, then the following procedure may be instituted by one or more persons authorized in the unit operating agreement to file with it a petition praying for an order setting up a salt water disposal unit within the production unit of the entire pool. The unitization of the entire pool as an operating unit must be ordered by the Commission as a condition precedent before the petition praying a salt water disposal unit may be filed.

C-10. Upon the filing of a petition as hereinafter provided, the Commission, after notice, shall hold a public hearing to consider the need to establish a salt water disposal unit for an entire pool.

Said petition shall contain the following:

(a) A description of the proposed unit area.

(b) A statement of the nature of the proposed salt water disposal unit operation.

(c) A conformed copy of the proposed salt water disposal unit operating agreement which may be a composite of executed counterparts of the agreement.

The petition may be filed by one or more persons authorized in the salt water disposal unit agreement to file it with the Commission.

C-11. If, after hearing and considering the petition and evidence offered in support thereof, the commission finds that:

(a) The proposed salt water disposal unit agreement has, or counterparts thereof have, been executed by persons, who, at the time of filing of the petition, owned of record legal title to at least an undivided seventy-five per cent (75%) interest in the right to drill into and produce oil and/or gas from the total proposed unit area and by persons, who, at that time, owned of record legal title to seventy-five per cent (75%) of royalty and overriding royalty payable with respect to oil and/or gas produced from the entire unit area, and that,

(b) Salt water disposal unit operation of the pool proposed to be unitized is reasonably necessary to prevent waste, to increase ultimate recovery of oil and/or gas and to protect correlative rights, and that,

(c) The value of the additional oil and/or gas to be recovered from the proposed unit area as a result of the proposed salt water disposal unit operation will exceed the additional cost incident to conducting such operation, it shall issue an order requiring salt water disposal unit operation in accordance with the terms of the proposed unit operating agreement. Such order and the provisions of the salt water disposal unit operating agreement shall, thereafter, be effective as to and binding upon each person owning an interest in the unit area, or in oil and/or gas produced therefrom or the proceeds thereof.

With respect to and interest which is encumbered of record with a mortgage or deed of trust both the grantor or grantors and grantee therein shall for the purposes of subparagraph (a) of this subsection C-11 be considered as the record owner of legal title thereto; provided that when the instrument gives the grantor or grantors in such mortgage or deed of trust the right to execute such a unit agreement the
grantor or grantors shall for said purpose be deemed the record owner or owners.

C-12. The order requiring salt water disposal unit operation shall be fair and reasonable under all circumstances and shall include:

(a) A description of the salt water disposal unit area.

(b) An allocation, whereby the portion of production allocated to the owner of each tract included in the unit operating agreement, shall be a basis for such charges to be made against each tract for the disposal of salt water produced by the operation of the unit as a whole and shall be considered as expenses of unit operation for the disposal of salt water.

(c) The time at which the salt water disposal [disposal] unit operation shall commence.

(d) Those additional provisions, not in conflict with, or inconsistent [inconsistent] with, the salt water disposal unit operating agreement, which the Commission determines to be appropriate for the prevention of waste, water pollution and the protection of all interested parties.

C-13. The obligation or liability of each owner in the several separately owned tracts for the payment of salt water disposal unit expense shall at all times be several and not joint or collective and in no event shall an owner of the oil and/or gas rights in the separately owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in such separately owned tract pursuant to the plan of unitization.

C-14. The operator or operators may have a lien on all of the property owned by each owner within the salt water disposal unit area to secure the payment of his proportionate part of the expenses of salt water disposal unit operation. Said lien may be established by filing with the circuit clerk of the county in which the property involved, or any part thereof, is located, an affidavit setting forth an itemized statement of the amount due and the interest of the owner in said unit, and may be enforced in the manner as now provided for the enforcement of laborers' liens.

C-15. The Commission, upon the filing of a petition in a form complying with the requirements of subsection C-10, may, after notice and hearing, require salt water disposal unit operation of a pool. In each such case the petition shall be accompanied by a copy of the proposed salt water disposal unit operating agreement with respect to the operation of the unit as so enlarged, in the form meeting the requirements of C-10(c). In each such instance the unit operating agreement shall be executed by persons owning interests in oil and gas in the entire unitized area so enlarged in sufficient numbers to comply with the requirements of C-11(a); provided that, if the unit operating agreement then in effect with respect to the unit area to which an additional portion of a pool is to be added contains provisions, under the terms of which additions to the unit area may be made the application for such enlargement of the unitized area need only be accompanied by an agreement, executed by persons owning interests in oil and gas under the area to be added to the unit area in number sufficient to comply with the requirements of C-11(a), for the inclusion, in accordance with the plan provided in the unit operating agreement involved, of the additional area to the unit area then existing.

In either such case, such new order, in providing for allocation of unit production from the enlarged unit area, shall first treat the unit area previously established as a single tract, and the portion of unit
production so allocated thereto shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportion as those specified therefor in the previous order. In no event shall said new order alter the relative values of tract factors of the previously established unit area, except by consent of all parties owning interests in the tract affected.

An order of the Commission entered under this subsection C-15 shall be effective as to the enlarged salt water disposal unit area and to all persons owning interest in oil and gas therein to the same extent as an order entered under subsection C-11, shall contain provisions with respect to the enlarged unit area to meet the requirements of subsection C-12, and the provisions of subsections C-13 and C-14 shall be applicable to obligations incurred in the operation of the enlarged salt water disposal unit area.

C-16. The portion of oil and/or gas produced from the salt water disposal unit and allocated to a separately owned tract shall be deemed, for all purposes, to have been actually produced from such tract, and operations for the production of oil and/or gas from any part of the unit area, conducted pursuant to the order of the Commission, shall be deemed, for all purposes, to be operations for the production of oil and/or gas from each separately owned tract in the unit area.

C-17. The formation of such a salt water disposal unit as herein provided and the operation of the unit under order of the Commission shall not be a violation of any statute of this State relating to trusts, monopolies, contracts or combinations in restraint of trade. [Acts 1939, No. 105, § 15, p. 219; 1951, No. 134, § 1, p. 286; 1957, No. 401, § 1, p. 1121; 1963, No. 558, § 1, p. 1648; 1965, No. 41, § 1, p. 143.]
the operator shall have the right to receive the first production from the well drilled by him thereon, which otherwise would be delivered or paid to the other parties jointly interested in the drilling of the well, so that the amount due by each of them for his share of the expense of drilling, equipping, and operation of the well may be paid to the operator of the well out of production, with the value of the production calculated at the market price in the field at the time such production is received by the operator or placed to his credit. In the event of any dispute relative to such costs, the Commission shall determine the proper costs."

The 1965 amendment added clause (a) to subsection C-8 of this section.

Repealing Clause.

Section 3 of Acts 1951, No. 134, read:
"This act shall not repeal any existing law, or portion of law, other than Subsection C of Section 15 of Act 106 of the General Assembly of the State of Arkansas for the year 1939."

Separability.

Section 2 of Acts 1951, No. 134, read:
"If for any reason any section, paragraph, sentence or clause in this act shall be held invalid, it shall not affect the validity of the remaining portions of this act."

Section 1 of Acts 1963, No. 536 which amended subsection A of this section contained a subsection A-4 which read:
"If any section, paragraph, sentence or phrase of this act shall be declared unconstitutional or void for any reason by any court of final jurisdiction, such decision shall not in any way invalidate or affect any other section, paragraph, sentence or phrase of this act, but the same shall continue in full force and effect."

Emergency.

Section 2 of Acts 1966, No. 41, read:
"It has been found and is declared by the General Assembly of the State of Arkansas that the public and private interests in the prevention of waste of oil and gas, the protection of the correlative rights of all owners and the increased ultimate recovery of oil and/or gas by integration of all tracts and interests in an entire pool, or part thereof, in appropriate cases are applicable to all common sources of supply in the State of Arkansas, regardless of when they were discovered; therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in full force from and after the date of its passage and approval."

Approved February 8, 1966.

Legal Periodicals.

Compulsory Unitization of Oil and Gas Pools, 5 Ark. L. Rev. 392.

Unit Operation of Oil and Gas Fields, II, 37 Notre Dame Lawyer 577.

Cited:


NOTES TO DECISIONS

Compulsory Unitization.

This section does not authorize compulsory unitization when a substantial majority of interested parties agree to such plan. Dobson v. Arkansas Oil and Gas Comm. (1950), 199 Ark. 160, 235 S. W. (2d) 33. (Decision prior to 1951 amendment.)

Parties to Application.

Where the evidence clearly shows that a unitized pool adjoining the property in question is producing large amounts of oil and gas from that property, upon the application of the working interests and the royalty interests in such area, the property in question should be added to that of the existing pool without the working interests and royalty interests in the previously existing pool joining in such application. Cornelius v. Arkansas Oil & Gas Comm. (1966), 240 Ark. 793, 402 S. W. (2d) 402.

Reinjection Expenses.

Where operators in part of an oil field incurred expense in installing equipment for reinjection of gas, other operators in the field could not be compelled to contribute to payment of this expense although the amount of their oil recovery was increased because of the increased pressure caused by such reinjection, for the reason that under this law field-wide unitization can be attained only by voluntary cooperation. Dobson v. Arkansas Oil & Gas Comm. (1953), 199 Ark. 190, 235 S. W. (2d) 33. (Decision prior to 1951 amendment.)

53-116. Limitation on production.—A. Whenever the Commission limits the total amount of oil or gas which may be produced in this state, the limit so fixed shall not be less than the aggregate of the allowances fixed for each separate pool in this state for the prevention of waste in accordance with the foregoing definition of waste, plus the production from unrestricted pools, and it shall allocate or distribute
the allowable, so fixed among the separate pools. Such allocation or distribution among the pools of the state shall be made on a reasonable basis, giving to each pool with small wells of settled production, an allowable production which will not accelerate or encourage a general premature abandonment of the wells in the pool.

B. Whenever the Commission limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction were imposed (which limitation may be imposed either incidentally to, or without, a limitation of the total amount of oil or gas which may be produced in the state), the Commission shall prorate or distribute the allowable production among the producers in the pool on a reasonable basis so as to prevent or minimize reasonably avoidable drainage from each developed unit which is not equalized by counterrainage, and so that each producer will have the opportunity to produce or receive his just and equitable share, as above set forth, subject to the reasonable requirements for the prevention of waste.

C. After the effective date of any rule, regulation or order of the Commission fixing the allowable production of oil or gas, or both, for any pool, no person shall produce from any well, lease or property more than the allowable production which is applicable, nor shall such amount be produced in a different manner than that which may be authorized. [Acts 1939, No. 105, § 16, p. 219.]

Compiler's Note.
The words in parentheses so appear in the act.

Comparative Legislation. Limitation on production:

53-117. Court review by aggrieved person—Injunction.—Any interested person adversely affected by any statute of this state with respect to conservation of oil or gas or both, or by any provisions of this act [§§ 53-101—53-126], or by any rule, regulation or order made by the Commission thereunder, or by any act done or threatened thereunder, and who has exhausted his administrative remedy, may obtain court review and seek relief by a suit for injunction against the Commission as defendant or the members thereof by suit in the Chancery Court of the county in which the property involved is located. Such suit shall have precedence over all other causes, proceedings, or suits on the docket of a different nature, and the attorney representing the Commission may have the case set for trial after ten [10] days' notice to the plaintiff or his attorney. In such trial, the burden of proof shall be upon the plaintiff, and all pertinent evidence with respect to the validity and reasonableness of the order of the Commission complained of shall be admissible. The statute, provision of this act, or the rule, regulation, or order complained of, shall be taken as prima facie valid, and such presumption shall not be overcome, in connection with any application for injunctive relief, including temporary restraining order, by verified bill or affidavit of, or in behalf of, the applicant. The right of review accorded by this section shall be inclusive of all other remedies, but the right of appeal shall lie as hereinafter set forth. [Acts 1939, No. 105, § 17, p. 219.]

Cross-Reference.
Appeal, § 53-120.

53-118. Notice required before granting of restraining order or injunction.—No temporary restraining order or injunction of any kind shall be granted against the Commission or members thereof, or against
the attorney general, or against any agent, employee or representative of the Commission, restraining the Commission or any of its members, agents, employees, or representatives, or the attorney general, from enforcing any statute of this state or any rule, regulation or order made thereunder except after three [8] days' notice served upon some person in the principal office of said Commission of the time, place and court before which application for such order shall be made. If the Commission shall so request at such hearing it shall be entitled to a trial on the merits within ten [10] days after the granting of any temporary order and if the plaintiff is not ready for trial at such time the court shall be authorized to dissolve the temporary restraining order. [Acts 1939, No. 105, § 18, p. 219.]

53-119. Injunctions for enforcement of act—Application for drilling oil or gas well to contain address of applicant.—Whenever it shall appear that any person is violating, or threatening to violate, any statute of this state with respect to the conservation of oil or gas, or both, or any provision of this act [§§ 53-101—53-126], or any rule, regulation or order made thereunder by any act done in the operation of any well producing oil or gas, or by omitting any act required to be done thereunder, the Commission, through its counsel or the attorney general, may bring suit against such person in the Chancery Court in the county in which the well in question is located, to restrain such person or persons from continuing such violation or from carrying out the threat of violation. In such suit the Commission may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions, as the facts may warrant, including, when appropriate, an injunction restraining any person from moving or disposing of illegal oil, illegal gas or illegal product, and any or all such commodities may be ordered to be impounded or placed under the control of an agent appointed by the court if, in the judgment of the court, such action is advisable.

If any such defendant cannot be personally served with summons in that county, personal jurisdiction of that defendant in such suit may be obtained by service made on any employee or agent of that defendant working on or about the oil or gas well involved in such suit and by the Commission mailing a copy of the complaint in the action to the defendant at the address of the defendant then recorded with the Director.

Each application for the drilling of a well in search of oil or gas in this state shall include the address of the residence of the applicant or each applicant, which address shall be the address of each person involved in accordance with the records of the Director until such address is changed on the records of the Commission after written request. [Acts 1939, No. 105, § 19, p. 219.]

53-120. Appeals.—In all proceedings brought under authority of this act [§§ 53-101—53-126], or of any oil or gas conservation statute of this state, or of any rule, regulation, or order issued thereunder, and in all proceedings instituted for the purpose of contesting the validity of any provision of the act or of any oil or gas conservation statute, or of any rule, regulation, or order issued thereunder, appeals may be taken in accordance with the general laws of the State of Arkansas relating to appeals; provided, however, that in all appeals from judgments or decrees in suits to contest the validity of any provision of this act, or any rule, or regulation of the Commission hereunder, such appeals when docketed in the Supreme Court shall take precedence over
other cases on the docket of such court and may be advance [advanced] as such court may order and direct. [Acts 1939, No. 105, § 20, p. 219.]

Compiler's Note.
The bracketed word "advanced" was inserted by the compiler.

53-121. False entries or reports—Failure to keep records—Penalty.
—Any person who, for the purpose of evading this act [§§ 53-101—53-126], or of evading any rule, regulation, or order made hereunder, shall intentionally make or cause to be made any false entry or statement of fact in any report required to be made by this act or by any rule, regulation, or order made hereunder; or who, for such purpose, shall make or cause to be made any false entry in any account, record, or memorandum kept by any person in connection with the provisions of this act or of any rule, regulation or order made hereunder; or who, for such purpose, shall omit to make, or cause to be omitted, full, true and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the interests or activities in the petroleum industry of such person as may be required by the Commission under authority given in this act or by any rule, regulation, or order made hereunder; or who, for such purpose, shall remove out of the jurisdiction of the state, or who shall mutilate, alter, or by any other means falsify, any book, record, or other paper, pertaining to the transactions regulated by this act, or by any rule, regulation, or order made hereunder, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than five hundred dollars [$500], or imprisonment for a term of not more than six [6] months, or to both such fine and imprisonment. [Acts 1939, No. 105, § 21, p. 219.]

53-122. Penalty for violation of act or regulations.—Any person who knowingly and willfully violates any provision of this act [§§ 53-101—53-126], or any rule, regulation, or order of the Commission made hereunder, shall, in the event a penalty for such violation is not otherwise provided for herein, be subject to a penalty of not to exceed one thousand dollars [$1,000] a day for each and every day of such violation, and for each and every act of violation, such penalty to be recovered in a suit in the Circuit Court of the county where the defendant resides, or in the county of the residence of any defendant if there be more than one defendant, or in the Circuit Court of the county where the violation took place. The place of suit shall be selected by the Commission, and such suit, by direction of the Commission, shall be instituted and conducted in the name of the Commission [Commission] by the attorney for the Commission or by the attorney general or under his direction by the prosecuting attorney of the county where the suit is instituted. The payment of any penalty as provided for herein shall not have the effect of changing illegal oil into legal oil, illegal gas into legal gas, or illegal product into legal product, nor shall such payment have the effect of authorizing the sale or purchase or acquisition, or the transportation, refining, processing, or handling in any other way, of such illegal oil, illegal gas or illegal product, but, to the contrary, penalty shall be imposed for each prohibited transaction relating to such illegal oil, illegal gas or illegal product.

Any person knowingly and willfully aiding or abetting any other person in the violation of any statute of this state relating to the conservation of oil or gas, or the violation of any provision of this act [§§ 53-101—54-126], or any rule, regulation, or order made thereunder,
shall be subject to the same penalties as are prescribed herein for the violation by such other person. [Acts 1939, No. 105, § 22, p. 219.]

Compiler's Note.
The bracketed word "commission" was inserted by the compiler.

53-123. Dealing in illegal oil or gas prohibited—When penalty imposed.—A. The sale, purchase or acquisition, or the transportation, refining, processing or handling in any other way of illegal oil, illegal gas or illegal product is hereby prohibited.

B. Unless and until the Commission provided for certificates of clearance or tenders, or some other method, so that any person may have an opportunity to determine whether any contemplated transaction of sale, purchase or acquisition, or of transportation, refining, processing or handling in any other way, involves illegal oil, illegal gas or illegal product, no penalty shall be imposed [imposed] for the sale, purchase or acquisition, or the transportation, refining, processing or handling in any other way, of illegal oil, illegal gas or illegal product, except under circumstances hereinafter stated. Penalties shall be imposed for the commission of each transaction prohibited in this section when the person committing the same knows that illegal oil, illegal gas or illegal product is involved in such transaction, or when such person could have known or determined such fact by the exercise of reasonable diligence or from facts within his knowledge. However, regardless of lack of actual notice or knowledge, penalties as provided in this act [§§ 53-101—53-126] shall apply to any sale, purchase or acquisition, and to the transportation, refining, processing or handling in any other way, of illegal oil, illegal gas or illegal product, where administrative provision is made for identifying the character of the commodity as to its legality. It shall likewise be a violation for which penalties shall be imposed for any person to sell, purchase or acquire, or to transport, refine, process or handle in any other way any oil, gas or any product without complying with any rule, regulation or order of the Commission relating thereto. [Acts 1939, No. 105, § 23, p. 219.]

Compiler's Note.
The bracketed word "imposed" was inserted by the compiler.

53-124. Seizure and sale of illegal oil or gas—Procedure.—Apart from, and in addition to, any other remedy or procedure which may be available to the Commission, or any penalty which may be sought against or imposed upon any person with respect to violations relating to illegal oil, illegal gas, or illegal product, all illegal oil, illegal gas and illegal product shall, except under such circumstances as are stated herein, be contraband and shall be seized and sold, and the proceeds applied as herein provided. Such sale shall not take place unless the court shall find, in the proceeding provided for in this paragraph, that the commodity involved is contraband. Whenever the Commission believes that illegal oil, illegal gas or illegal product is subject to seizure and sale, as provided herein, it shall, through its attorney or attorney general, bring a civil action in rem for that purpose in the circuit court of the county where the commodity is found, or the action may be maintained in connection with any suit or cross-action for injunction or for penalty relating to any prohibited transaction involving such illegal oil, illegal gas or illegal product. Any interested person who may show himself to be adversely affected by any such seizure and sale shall have the right to intervene in such suit to protect his rights.
The action referred to above shall be strictly in rem and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas or illegal product mentioned in the complaint, as defendant, and no bond or bonds shall be required of the plaintiff in connection therewith. Upon the filing of the complaint, the clerk of the court shall issue a summons directed to the sheriff of the county, or to such other officer or person as the court may authorize to serve process, requiring him to summon any and all persons (without undertaking to name them) who may be interested in the illegal oil, illegal gas or illegal product mentioned in the complaint to appear and answer within thirty [30] days after the issuance and service of such summons. The summons shall contain the style and number of the suit and a very brief statement of the nature of the cause of action. It shall be served by posting one [1] copy thereof at the courthouse door of the county where the commodity involved in the suit is alleged to be located and by posting another copy thereof near the place where the commodity is alleged to be located. One [1] copy of such summons shall be posted at least five [5] days before the return day stated therein, and the posting of such copy shall constitute constructive possession of such commodity by the state. A copy of the summons shall also be published once each week for four [4] weeks in some newspaper published in the county where the suit is pending and having a bona fide circulation therein. No judgment shall be pronounced by any court condemning such commodity as contraband until after the lapse of five [5] days from the last publication of said summons. Proof of service of said summons, and the manner thereof, shall be provided by general law.

Where it appears by a verified pleading on the part of the plaintiff, or by affidavit, or affidavits, or by oral testimony, that grounds for the seizure and sale exist, the clerk, in addition to the summons or warning order, shall issue an order of seizure, which shall be signed by the clerk and bear the seal of the court. Such order of seizure shall specifically describe the illegal oil, illegal gas or illegal product, so that the same may be identified with reasonable certainty. It shall direct the sheriff to whom it is addressed to take into his custody, actual or constructive, the illegal oil, illegal gas or illegal product, described therein, and to hold the same subject to the orders of the court. Said order of seizure shall be executed as a writ of attachment is executed [executed]. No bond shall be required before the issuance of such order of seizure, and the sheriff shall be responsible upon his official bond for the proper execution thereof.

In a proper case, the court may direct the sheriff to deliver the custody of any illegal oil, illegal gas or illegal product seized by him under an order of seizure, to a conservator to be appointed by the court, which conservator shall act as the agent of the court and shall give bond with such approved surety as the court may direct, conditioned that he will faithfully conserve such illegal oil, illegal gas or illegal product, as may come into his custody and possession in accordance with the orders of the court; provided, that the court may in its discretion appoint any member of the Commission or any agent of the Commission as such conservator.

Sales of illegal oil, illegal gas or illegal product seized under the authority of this act [§§ 53-101—53-126], and notices of such sales, shall be in accordance with the laws of this state relating to the sale and disposition of attached property; provided, however, that where the property is in the custody of a conservator, the sale shall be held by said conservator and not by the sheriff. For his services hereunder,
such conservator shall receive a reasonable fee to be paid out of the proceeds of the sale or sales to be fixed by the court ordering such sale.

The court may order that the commodity be sold in specified lots or portions, and at specified intervals, instead of being sold at one time. Title to the amount sold shall pass as of the date of the act which shall be found by the court to make the commodity contraband. The judgment shall provide for payment of the proceeds of the sale into the Conservation Fund [Oil and Gas Commission Fund], after first deducting the costs in connection with the proceedings and the sale. The amount sold shall be treated as legal oil, legal gas or legal product, as the case may be, in the hands of the purchaser, but the purchaser and the commodity shall be subject to all applicable laws, and rules, regulations and orders with respect to further sale or purchase or acquisition, and with respect to the transportation, refining, processing, or handling in any other way, of the commodity purchased.

Nothing in this section shall deny or abridge any cause of action a royalty owner, or a lien holder, or any other claimant, may have, because of the forfeiture of the illegal oil, illegal gas, or illegal product, against the person whose act resulted in such forfeiture. No oil, gas or illegal product shall be sold for less than the average market value at the time of sale of similar products of like grade and character. [Acts 1939, No. 105, § 24, p. 219.]

Compiler's Notes.
The bracketed word "executed" was inserted by the compiler.
The bracketed words "Oil and Gas Commission Fund" were inserted by the compiler, such fund taking the place of the Conservation Fund under § 13-546. Fines and penalties are special revenues under § 13-505 and are placed in the State Apportionment Fund in § 13-509 and after certain deductions by § 13-511 become the Oil and Gas Commission Fund in § 13-518.
The words enclosed in parentheses so appeared in the act.

Cross-Reference.
Attachment, § 31-101 et seq.
Comparative Legislation. Seizure of illegal oil:

53-125. Notice of intention to drill well—Permit—Fee—Plugging of abandoned well—Notice of abandonment—Fee.—Before any well, in search of oil or gas, shall be drilled, the person desiring to drill the same shall notify the Commission upon such form as it may prescribe and shall pay a fee of fifty dollars [$50.00] for each well. The drilling of any well is hereby prohibited until such notice is given and such fee has been paid and permit granted.

Each abandoned well and each dry hole promptly shall be plugged in the manner and within the time required by regulations to be prescribed by the Commission, and the owner of such well shall give notice, upon such form as the Commission may prescribe, of the drilling of each dry hole and of the owner's intention to abandon, and shall pay a fee of fifteen dollars [$15.00]. No well shall be abandoned until such notice has been given and such fee has been paid. [Acts 1939, No. 105, § 55, p. 219.]

Cross-References.
Method of plugging well, § 53-203.
Right of another to plug well, lien, § 58-204.
Penalty for failure to plug oil or gas well, §§ 53-203, 58-205.

53-126. Failure to control wild well unlawful.—Notice to owner—Action by commission to control well—Recovery of expenses—Lien on well.—In order to protect further the natural gas fields and oil fields in this state, it is hereby declared to be unlawful for any person to
permit negligently any gas or oil well to go wild or to get out of control. The owner of any such well shall, after twenty-four [24] hours' written notice by the Commission given to him or to the person in possession of such well, make reasonable effort to control such well.

In the event of the failure of the owner of such well within twenty-four [24] hours' after service of the notice above provided for, to control the same, if such can be done within the period, or to begin in good faith upon service of such notice, operations to control such well, or upon failure to prosecute diligently such operations, then the Commission shall have the right to take charge of the work of controlling such well, and it shall have the right to proceed, through its own agents or by contract with a responsible contractor, to control the well or otherwise to prevent the escape or loss of gas or oil from such well all at the reasonable expense of the owner of the well. In order to secure to the Commission in the payment of the reasonable cost and expense of controlling or plugging such well, the Commission shall retain the possession of the same and shall be entitled to receive and retain the rents, revenues and incomes therefrom until the costs and expense incurred by the commission shall be repaid. When all such costs and expenses have been repaid, the Commission shall restore possession of such well to the owner; provided, that in the event the income received by the Commission shall not be sufficient to reimburse the Commission, as provided for in this section, the Commission shall have a lien or privilege upon all of the property of the owner of such well, except such as is exempt by law, and the Commission shall proceed to enforce such lien or privilege by suit brought in any court of competent jurisdiction, the same as any other like civil action, and the judgment so obtained shall be executed in the same manner now provided by law for execution of judgments. Any excess over the amount due the Commission which the property seized and sold may bring, after payment of court costs shall be paid over to the owner of such well. [Acts 1939, No. 105, § 26, p. 219.]

Repealing Clause.

Section 28 of Acts 1939, No. 105 repealed Acts 1933, No. 234, and all laws and parts of laws in conflict therewith.

Separability.

Section 27 of Acts 1939, No. 105, read: "If any part or parts of this act be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions of this act. The General Assembly hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional."

Emergency.

Section 29 of Acts 1939, No. 105, read: "It is hereby declared that existing laws determining the authority of the state and the Arkansas Board of Conservation to conserve the oil and gas resources of the state, do not sufficiently define such authority, and such condition has greatly handicapped the Arkansas Board of Conservation in the proper administration of its duties; therefore, an emergency is hereby declared to exist, and it being necessary for the immediate preservation of the public peace, health, and safety, this act shall take effect and be in full force from and after its passage." Approved February 20, 1939.

53-127. Secondary recovery methods—Definitions.—Unless the context otherwise requires, in addition to the words defined in this section having the following meaning when found in this act [§§ 53-127—53-130], the definition found in section 9 [§ 53-109] of Act 106 of 1939 shall also apply:

"Secondary Recovery" is the oil, gas, or oil and gas recovered by any method (artificial flowing or pumping) that may be employed to produce them through the joint use of two [2] or more wells. Secondary recovery is generally recognized as being that recovery which may be obtained by the injection of liquids or gases into the reservoir for the
purpose of augmenting reservoir energy; usually, but not necessarily, this is done after the primary-recovery phase has passed.

"Primary Recovery" is the oil, gas, or oil and gas recovered by any method (natural flow or artificial lift) that may be employed to produce them through a single well bore; the fluid enters the well bore by the action of native reservoir energy, or gravity.

"Water Drive" is any process whereby energy for the recovery of oil is derived principally from the movement of water in the formation. The water may be either native or introduced artificially into the formation.

"Gas Drive" is the process wherein energy for the recovery of oil is derived from gas under pressure in the formation. There may be an injected gas drive; or a gas-cap drive, which is the displacement of oil by the growth or expansion of a gas zone in an oil reservoir; or a solution-gas drive; which is the displacement of oil by the expansion of the gas dissolved in it, depending upon the source of the compressed gas. In this manner, gas drive may apply to either primary or secondary recovery.

"Water Injection" is the introduction of water into a subsurface reservoir.

"Gas Injection" is the introduction of any gas into a subsurface reservoir.

"Water Flooding" is the introduction of water into an oil-bearing formation for the purpose of increasing the oil recovery, i.e., a secondary-recovery operation employing water injection.

"Repressuring" is the introduction of fluid, either gas or liquid, into a producing formation for the purpose of increasing the reservoir pressure.

"Pressure Maintenance" is a primary- or secondary-recovery operation so conducted as to afford some degree of control over reservoir-pressure decline. This is preferably accomplished by gas injection in the early life of a pool.

"Recycling" is a continuous reinjection of produced gas.

"Cycling" is an operation in which condensate-bearing gas is displaced from a gas zone by injection of dry gas.

"Gas Condensate" shall mean the liquid produced by the condensation of a vapor or gas either after it leaves the reservoir or while still in the reservoir. Condensate is often called Distillate, Drips, White Oil, etc. [Acts 1943, No. 302, § 1, p. 666.]

Preamble.

Acts 1943, No. 302 contained a preamble which read:

"Whereas, Since the year 1923 there has been paid into the Conservation Fund of the State Treasury fees for the drilling and abandonment of oil and gas wells in this state, and

"Whereas, Act 105 of the Fifty-second Arkansas General Assembly does prevent the expenditure of any Monies in the Conservation Fund of the State Treasury in the prevention of waste and the fostering, encouragement and providing of conservation and crude oil and natural gas, and the protection of the vested, co-equal or correlative rights of owners of crude oil and natural gas in these common sources of supply of crude oil and natural gas discovered prior to January 1, 1937, and

"Whereas, The Interstate Oil Compact Commission, composed of legal representatives from the States of Arkansas, Colorado, Illinois, Kansas, Kentucky, Louisiana, Michigan, New Mexico, New York, Oklahoma, Pennsylvania, and Texas, did find at their meeting in Lexington, Kentucky, June 19-20, 1942:

"(1) That there are 1,236 secondary recovery projects in 224 fields with 50,636 producing wells and 34,956 injection wells, representing a minimum proven reserve of 1,355,000,000 barrels, with a plant investment of $251,496,000 in these states.

"(2) Approval of a legal committee report recommending state legislation
providing for maximum application of secondary recovery operations, repres-
suring, pressure maintenance, recycling and cycling, with protection from state
and federal anti-trust acts.

"(3) Recommendation that collection of data for secondary recovery opera-
tions should start as soon as a field is discovered, and findings that success of
many operations can be predetermined by physical tests and accurate well re-
cords; and that large savings in materials and greater ultimate recovery may be
obtained through secondary recovery operations, and

"Whereas, Since the findings of the Interstate Oil Compact Commission were
published in their Quarterly Bulletin of
July, 1942, the American Petroleum
Institute did publish during this same
month factual data and information on
the production of petroleum in the
United States by secondary-recovery
methods in a volume titled Secondary
Recovery of Oil in the United States,
wherein it is evident that oil fields
located in the States of New York, Penn-
sylvania, West Virginia, Ohio, Kentucky,
Illinois, Michigan, Kansas, Oklahoma,
Louisiana and Texas (of comparable
class to oil fields producing in the
state of Arkansas) are successfully and
economically increasing their ultimate
recovery, and

"Whereas, The Petroleum Adminis-
trator for War, the National Petroleum
Regulatory Conference, the Independent
Petroleum Association of America, et al,
have warned that the discovery of new
reserves of crude oil and gas-condensate
so vitally necessary to meet the civilian
and military needs for petroleum prod-
ucts in this time of war is on the wane
and that it is now absolutely essential
that every case where it is possible,
advanced operating practice must be
substituted not only for the use of
critical materials but for the bringing
about of the ultimate in recovery from
oil and condensate pools now producing,
and

"Whereas, It is recognized that sub-
stantial quantities of oil may be recov-
ered by secondary-recovery methods in
certain oil fields of Arkansas, however,
information is entirely lacking on the
possibilities of Secondary recovery in
those oil fields discovered prior to Jan-
uary 1, 1937,

"Therefore"

53-128. Investigation of use of secondary recovery methods.—The
Oil and Gas Commission of the State of Arkansas is hereby authorized
and directed to make such investigations and research as in the judg-
ment of the Commission is appropriate to ascertain the advisability
of the employment of a secondary recovery method or methods in any
pool within the state of Arkansas containing oil and gas, and to this
end are authorized to employ the personnel which in its judgment is
necessary for the performance of such work. [Acts 1943, No. 302, § 2,
p. 666.]

53-129. Submission of findings to land owners.—The findings of the
Oil and Gas Commission are to be printed and submitted to the land
owners, royalty owners, producers and all parties in interest, in any
oil or gas-condensate field or pool, or part thereof, where the em-
ployment of secondary-recovery methods are found to be advisable. [Acts
1943, No. 302, § 3, p. 666.]

53-130. Agreements to use secondary recovery methods not in
restraint of trade.—If the persons owning and operating any oil pool
or portion thereof enter into an agreement among themselves for the
employment of any secondary recovery method or methods for the
production of oil from said pool or portion thereof, and the Oil and Gas
Commission finds that operating the pool or portion thereof in accord-
ance with said agreement, will result in the prevention of waste, the per-
formance of such agreement by said persons shall not be a violation of
any Statute of this State relating to trusts, monopolies, or contracts or
combinations in restraint of trade. [Acts 1943, No. 302, § 4, p. 666.]

Compiler's Note.

Section 6 of Acts 1943, No. 302 pro-
vided for a report by the commission to
the next (1945) session of the legisla-
ture.

Appropriation.

Section 5 of Acts 1943, No. 302 appro-
priated $5,000 from the Conservation
Fund (now the Oil and Gas Commission
Fund) for carrying out §§ 53-128, 53-129.
Repealing and Emergency Clause.

Section 7 of Acts 1943, No. 302, read: "There exists a National Emergency, and the effective prosecution of war requires the immediate increased uses of vast quantities of steel and other critical materials, and it is imperative that the production of petroleum be conducted under circumstances and conditions which will assure a maximum recovery of petroleum and associated hydrocarbons, and which will not involve a waste and inefficient use of the limited quantities [quantities] of critical materials available for petroleum production. "Therefore, all laws and parts of laws in conflict herewith are hereby repealed, and this act being necessary for the immediate preservation of the public peace, health, and safety, an emergency is hereby declared, and this act shall take effect and be in force from and after its passage." Approved March 28, 1943.

53-131. Promotion of exploration for oil—Definitions.—Unless the context otherwise requires, the words defined in this Section shall have the following meaning when used in this Act [§§ 53-131—53-137].

A. "Commission" shall mean the Oil and Gas Commission of the State of Arkansas.

B. "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind, or the heirs, successors, or assigns of any of the foregoing.

C. "Oil" shall mean crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

D. "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one [1] pool; and "field" shall include the underground reservoir or reservoirs containing crude petroleum oil, natural gas or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two (2) or more pools.

E. "Pool" shall mean an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool" as used herein.

F. "Owner" shall mean the person who has the right to drill and produce oil, and to appropriate the production either for himself or for himself and another or others.

G. "Participating area" shall mean the land surface area within a radius of two (2) miles from the discovery well.


I. "Revenue Commissioner" shall mean the Commissioner of Revenues of the State of Arkansas.

J. "Commercial Oil Pool" shall mean a pool which appears to contain sufficient quantities of recoverable oil, in the opinion of the Commission, to justify the economical development thereof. [Acts 1957, No. 258, § 2, p. 797.]

Compiler’s Note.

Section 1 of Acts 1937, No. 258, read: "Being mindful of the recent Suez Canal incident which has resulted in a continuing international crisis threatening World Peace; in recognition of the high and ever increasing costs involved in exploration for new sources of oil, the increasing demand for oil and its products, the vital relationship of oil to the continued prosperity of our State and Nation, the importance of oil to the over-all economy of our State and Nation and especially the national security of our country;
53-132. Bonus for discovery of oil pool.—Any person who discovers a commercial oil pool in this State, not heretofore discovered, shall be entitled to the bonus herein provided upon compliance with the provisions hereof. [Acts 1957, No. 258, § 3, p. 797.]

53-133. Application to commission for permit to drill discovery well.—To become entitled to the benefits herein provided, a person shall make application therefor to the Commission at or before the issuance of the permit to drill the discovery well in such pool upon a form approved by the Commission in which the applicant shall, among other things, state under oath:
   A. the location of the proposed discovery well; and
   B. a legal description of the land within the participating area as to which the applicant is the owner at that date. [Acts 1957, No. 258, § 4, p. 797.]

53-134. Approval of application.—Such application shall be approved by the commission if it determines from the application and such investigation as it may deem proper:
   A. that the location of the proposed discovery well is not within the geographical confines of a known producing oil field; and
   B. that the application has complied with the provisions hereof and all rules and regulations of the Commission in respect thereto. [Acts 1957, No. 258, § 5, p. 797.]

53-135. Certificate of discovery of commercial pool.—Upon receipt by the Commission, within one [1] year from the date of the approval of such application, of evidence from which the Commission finds that a commercial oil pool has been discovered by such person in the drilling of such discovery well and that compliance has been had with this Act [§§ 53-131—53-137] and the rules and regulations of the Commission, it shall issue to such person a Certificate to that effect, which Certificate shall entitle such person to the benefits hereof; provided, however, not more than one [1] such Certificate shall be issued for each field, nor more than one [1] pool in any field. [Acts 1957, No. 258, § 6, p. 797.]

53-136. Credit against severance tax.—From and after the effective date of the Certificate, such person shall be entitled to receive from the Revenue Commission a credit against the taxes thereafter otherwise due by such person on account of oil produced from such pool from wells located on any land as to which such person was the owner, and so designated, in the application filed with the Commission, as follows:
   A. Seventy-five per cent (75%) of the Severance Tax otherwise due during a period of five (5) years from the date of said Certificate if such pool is located above the base of the deepest producing oil formation in the County where the discovery well is located at the date of the application.
   B. Seventy-five per cent (75%) of the Severance Tax otherwise due during a period of ten (10) years from the date of such Certificate if such pool is located below the base of the deepest producing oil formation in said County or if there was no oil production in said County at the date of the application.
C. The Certificate shall designate whether the person named therein is entitled thereunder to the benefits of subsections A or B hereof, and the name of the field and pool covered thereby. [Acts 1957, No. 258, § 7, p. 797.]

53-137. Rules and regulations—Powers of oil and gas commission and revenue commissioner.—The Commission shall have authority to make reasonable rules and regulations and exercise such powers as are granted to it by the Conservation Act as may be necessary in the administration of this Act [§§ 53-131—53-137]; and the Revenue Commissioner shall have authority to make reasonable rules and regulations for the collection of the taxes and allowance of credit as herein provided. [Acts 1957, No. 258, § 8, p. 797.]

Repealing Clause.
Section 9 of Acts 1957, No. 258 repealed all laws and parts of laws in conflict therewith.

Separability.
Section 10 of Acts 1957, No. 258, read: "If any provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

CHAPTER 2

GENERAL REGULATIONS FOR OPERATION OF WELLS AND CONSERVATION

SECTION.
53-201. Casing oil or gas wells—Different oil or gas bearing sands kept separate.
53-202. Gas to be confined in well until used.
53-203. Plugging dry or abandoned wells.
53-204. Right of another to plug well—Lien on property.
53-205. Penalty for violation of preceding sections.
53-206. Log of well drilled—Filing.

SECTION.
53-208. Gas to be confined within three days—Penalty.
53-209. Failure to confine gas—Right of others to confine gas—Recovery of expenses.
53-210. Flameout lights prohibited.
53-211. Disposal of salt water by fields or pools established or brought in after July 1, 1957.
53-212. Penalty for unlawful disposal of salt water—Injunction.

53-201. Casing oil or gas wells—Different oil or gas bearing sands kept separate.—The owner or operator of any well put down for the purpose of exploring for, or producing oil or gas, shall, during the course of such drilling, case off all fresh or salt water from each oil or gas producing sand encountered while drilling, such casing to be set in the well in such manner as to exclude all water from penetrating the first into a lower oil or gas bearing sand, the same shall be cased in such manner as to exclude all fresh or salt water from all oil or gas bearing sands encountered during the course of such drilling operations. And should any well so drilled produce oil or gas in paying quantities through the first, or any succeeding oil or gas bearing sand, such oil or gas shall be conserved by either casing or mudding it off, so as to confine it in the gas or oil bearing sand where found; or, if it is to be utilized from different sands in the same well, it shall be taken through different strings of casing or tubing. [Acts 1917, No. 166, § 1, p. 890; C. & M. Dig., § 7299; Pope's Dig., § 9355.]
Compiler's Notes.
The provisions of this chapter may be to a large extent superseded by the regulations adopted by the Oil and Gas Commission under §§ 53-111.
This section may be superseded by Rules B-15 to B-17, and B-29 of the Oil and Gas Commission, which read:
"In all proven fields, or areas designated by the Commission, casing requirements shall be governed by special rules for the field or area.
"All oil wells shall be completed with an oil string of casing which shall be properly cemented at a sufficient depth adequately to protect the oil-bearing stratum. Gas-producing wells shall be cased in a similar manner.
"All fresh water sands shall be fully protected in such manner as will prevent same from becoming impregnated with oil, gas, or salt water."
"In drilling in areas where high pressures are likely to exist, all proper and necessary precautions shall be taken for keeping the well under control, including the use of blow-out preventers and high pressure fittings attached to properly anchored and cemented casing strings.
"RULE B-17. Drilling Fluid.

At the time of drilling any well, the operator shall continuously maintain in the hole, from top to bottom, good mud-laden fluid of the weight of not less than nine and one-half (9\(\frac{1}{2}\)) pounds per gallon; tested in accordance with A. F. I. specifications now existing, and shall test the blow-out preventer on said well at intervals of not more than eight hours apart. Fluid specifications can be changed by special order."

"RULE B-29. Casing Tests.
"The operator shall notify the Commission, before completing any well, that a test of each string of casing has been made in accordance with the provisions of the special rules governing the field or area in which the well was drilled."

Cross-References.
Laborers' liens, §§ 51-320.
Mechanics' and materialmen's liens, §§ 51-701 et seq.
Notice of drilling wells, §§ 53-125, 53-210 note.
Setting fire to escaping gas, § 41-2904.
Comparative Legislation. Casing oil and gas wells:
Cal. Deering's Codes, Public Resources Code, § 3220.
N. Mex. Stat., §§ 65-3-22—65-3-34.

53-202. Gas to be confined in well until used. — Any person, copartnership, corporation, owner, lessee or manager, in possession of any well producing natural gas, in order to prevent said gas from wasting by escape, shall within ten (10) days after this act (§§ 53-201—53-210) takes effect, and, thereafter within four (4) days after penetrating the gas-bearing sand in any well drilled, shut in and confine the gas in said well until and during such time as the gas therein shall be utilized for light, fuel or stream power. [Acts 1917, No. 165, § 2, p. 890; C. & M. Dig., § 7300; Pope's Dig., § 9356.]

Compiler's Notes.
This section may be superseded by Rules D-12, D-15 of the Oil and Gas Commission, which read:
"After the expiration of seven (7) days from the time of encountering gas in a gas well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized for the following purposes:
"(A) Any gas well gas shall be utilized except for:
"(1) Light or fuel.
"(2) Efficient chemical manufacturing.
"(3) Bona fide introduction of gas into oil, or gas bearing horizon, in order to maintain or increase the reservoir pressure or otherwise increase the ultimate recovery of oil or gas from such horizon.
"(4) The extraction of natural gasoline therefrom when the residue is returned to the horizon from which it is produced.

"(B) Casinghead gas may be used for any beneficial purpose.
"(C) Any producer of gas may use the same as gas lift in the bona fide production of oil where such gas is not used in excess of ten thousand (10,000) cubic feet per barrel of oil produced; provided that in order to prevent waste in any case where the facts in such warrant it, the Commission may permit the use of additional quantities of gas to lift oil, provided all such gas so used in excess of ten thousand (10,000) cubic feet for each barrel of oil shall be processed for natural gasoline when same is reproduced."

"RULE D-13. Use of Gas for other than Light or Fuel.
"Before any person shall engage in the utilization of gas for purposes other than light and fuel he shall file with the Commission a verified statement setting forth the names and addresses of the person or persons who are to engage in the proposed operation, the location of the plant or plants where the proposed
utilization is to be carried on, the kind and probable volume of the gas that is to be used, the reservoir from which it is to be taken, the general type of the process, and the kind and condition of the equipment that is to be used, the results to be obtained in so far as such results can be reasonably anticipated, and such other pertinent facts as the Commission may require. Upon filing said statement the Commission may, if it deems the same necessary, conduct a public hearing with reference to the proposed utilization in order to determine whether such utilization or the use of the proposed processes and equipment will constitute waste."

53-203. Plugging dry or abandoned wells.—All lessees or operators drilling or operating for crude oil or natural gas within the State of Arkansas, shall immediately, in a practical and workmanlike manner, under the supervision of the oil or gas inspector, as hereinafter provided, plug all dry or abandoned oil or gas wells in which oil or gas bearing stratum has been found, in the following manner:

Beginning at the bottom of the hole, same shall be solidly plugged with a substance consisting of one-third portion cement and two-thirds portion of sand properly mixed with water to a point twenty-five [25] feet above top level of the oil or gas bearing sand. At that point a seasoned, wooden plug two [2] feet in length and the diameter of the hole, shall be placed. Thereafter the hole shall be filled up solidly twenty-five [25] feet with sand balings and a seasoned wooden plug two [2] feet in length and the diameter of the hole, shall be so placed and driven firmly into the sand balings.

Should there be more than one oil or gas-bearing sand in the well, after plugging the bottom sand in the well, as hereinafore set out, the well shall be filled with sand balings to within [10] feet of the bottom of the next sand above that last plugged, when this said sand and each succeeding sand shall be plugged in the manner hereinafore set out, until all of the oil and gas-bearing sands in the well have been plugged as herein provided. [Acts 1917, No. 166, § 8, p. 890; C. & M. Dig., § 7301; Pope’s Dig., § 9357.]

Compiler’s Notes.
The bracketed word “sand” was inserted by the compiler.
The provisions of this section may be superseded by Rules B-6 to B-11 of the Oil and Gas Commission, which read:
"RULE B-6. Oil, Gas and Water to be Protected.
"Before any well or any producing horizon encountered therein shall be abandoned, the owner or operator shall use such means, methods and procedure as may be necessary to prevent water from entering any oil or gas-bearing formations, and to protect any underground or surface water that is suitable for domestic or irrigation purposes from waste, downward drainage, harmful infiltration and addition of deleterious substances."
"RULE B-7. Notice of Intention to Abandon Supervision (Plug).
"All holes drilled in search of oil or gas, except such holes as are described in Rule B-10, and drilled below the base of the fresh water sands are required to be either properly capped or to be abandoned in accordance with the procedure described in Rule B-8 prior to the time that the regular equipment used to drill said well is released from the drilling operation.

"Prior to the commenceent of any work in abandonment operations, the owner, operator, driller, contractor, or other person responsible for the conduct of the drilling operations shall give written notice of his intent to abandon such well to the Oil and Gas Commission on form. Application to Plug, which notice must be accompanied by a sum of $15.00, which amount is fixed by law as the fee to be paid for a plugging permit.

"Upon receipt of such notice, the Commission shall issue a plugging permit as required by law and shall send a duly authorized representative to the location specified to be present at the time indicated in such notice to supervise the plugging of such well.

"A permit to plug or abandon will not be issued unless the appropriate reports required by existing rules and regulations of the Oil and Gas Commission have been furnished by the operator or owner of the well for which said permit is requested."
"The methods and procedure for plugging a well shall be as follows:
"A. The bottom of the hole shall be filled to the top of each producing stratum and a cement plug of not less than
thirty (30) feet in length shall be placed inside the casing immediately above each producing stratum or a bridge plug regular or wireline type, may be placed at the top of each producing stratum.

"B. A cement plug not less than fifty (50) feet in length shall be placed at approximately fifty (50) feet below all fresh water-bearing stratum when the surface casing is not cemented below the base of the fresh water-bearing stratum. In the event the surface casing has been cemented below the base of the fresh water-bearing stratum, a thirty (30) foot cement plug shall be placed inside the base of the surface casing.

"C. A plug shall be placed at the surface of the ground in each hole plugged in such manner as not to interfere with soil cultivation.

"D. The interval between plugs shall be filled with an approved heavy mud-laden fluid.

"E. An uncased rotary drilled hole shall be plugged with approved heavy mud up to the base of the surface casing and a plug of not less than thirty (30) feet of cement placed inside the base of the surface casing, provided the casing is cemented through the base of the fresh water-bearing stratum. A cement plug of not less than fifty (50) feet in length shall be placed at a point fifty (50) feet below the base of the fresh water-bearing stratum in the event the surface casing is not cemented through the base of the fresh water-bearing stratum. The hole shall be capped similar to other abandoned holes.

"F. Any other method approved by the Commission may be used.


"Within five days after the plugging of any well has been accomplished, the owner or operator thereof shall file an affidavit with the Commission setting forth in detail the method used in plugging the well. Such affidavit shall be made on a form prescribed by the Commission. Copies of well plugging records and affidavits will be furnished to any person furnishing fifty cents per copy, except in the case of core drilling, seismic or other wells drilled for geological data.

"RULE B-10. Seismic Core and other Exploratory Holes to be Plugged; Methods; Affidavit.

"Before any hole is abandoned which is drilled for seismic, core or other exploratory purposes below the fresh water formation, it shall be the duty of the owner or driller of any such hole to plug the same in such manner as to properly protect all water bearing formations; and within one year after such plugging, an affidavit shall be filed with the Commission by such owner or driller setting forth the method used in protecting the water bearing formations in the plugging of such hole.

"RULE B-11. Wells Used for Fresh Water.

"When the well to be plugged may safely be used as a fresh water well and such utilization is desired by the landowner, the well need not be filled above the required sealing plug set below fresh water; provided, that written authority for such use is secured from the landowner and filed with the Commission."

This section, together with § 53-205, is deemed to supersede Act May 6, 1905, No. 245, p. 635 (C. & M. Dig., §§ 2760, 2761; Pope's Dig., §§ 3442, 3443), which read as follows:

"Section 1. Duty to plug. — Whenever any well shall have been sunk for the purpose of obtaining natural gas or oil or exploring for the same, and shall be abandoned or cease to be operated for utilizing the flow of gas or oil therefrom, it shall be the duty of any person, firm or corporation having the custody or control of such well at the time of such abandonment or cessation of use, and also of the owner, or owners, of the land wherein such well is situated, to stop and plug the same, properly and securely, as follows: There shall be placed in the bottom of the hole thereof a plug of well-seasoned pine wood, the diameter of which shall be within one-half [1/2] inch as great as the hole of such well, to extend at least three [3] feet above the water level, where water has been struck; where no water has been struck, such plug shall extend at least three [3] feet from the bottom of the well. In both cases, such wooden plugs shall be thoroughly rammed down and made tight by the use of drilling tools. After such ramming and tightening, the hole of such well shall be filled on top of such plug with finely broken stone or sand, which shall be rammed to a point at least four [4] feet above the nearest sandstone or limestone, or any other gas or oil-bearing rock; on top of this stone or sand there shall be placed another wooden plug at least five [5] feet long with the diameter the same as the plug aforesaid, which shall be thoroughly rammed and tightened.

"Section 2. Punishment.—Any person violating any provision of section 1 of the act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than twenty dollars ($20.00) nor more than two hundred ($200), or be imprisoned in the county jail not less than ten [10] days nor more than sixty [60] days, or suffer both such fine and imprisonment; and each day during which such violation shall continue shall constitute a separate offense."
53-204. Right of another to plug well—Lien on property.—Whenever any person is injured or threatened with injury by the neglect to comply with the provisions of section 3 (§ 53-203), it shall be lawful for such person, after notice to the owner, lessee or caretaker, of the premises upon which such well is located, to enter upon and fill up and plug such well in the manner herein provided; and thereupon to recover the expense thereof from the person or persons, whose duty it was to fill up or plug such well in like manner or debts of such amounts are recoverable, and shall have a lien upon the fixtures, machinery and leasehold interest of the owner or operator of such well for all sums expended in filling up and plugging such well, and for the costs of the suit, including a reasonable attorney's fee, to be fixed by the court. [Acts 1917, No. 166, § 4, p. 890; C. & M. Dig., § 7802; Pope's Dig., § 9858.]

53-205. Penalty for violation of preceding sections.—Any person, firm or corporation violating section one (§ 53-201), two (§ 53-202), or three (§ 53-203) shall be subject to a penalty of not less than one hundred dollars [$100] or more than one thousand dollars [$1,000] to be recovered in an action therefor, brought by the prosecuting attorney in the name of the State, and a reasonable attorney's fee for the prosecuting attorney to be paid by the court.

The proceeds of penalties collected shall be turned into the general road fund of the county where incurred, to be used on the roads, bridges or highways of said county, in the discretion of the county court. [Acts 1917, No. 166, § 5, p. 890; C. & M. Dig., § 7803; Pope's Dig., § 9859.]

53-206. Log of well drilled—Filing.—It shall be the duty of the owner of any well drilled for gas or oil to keep a careful and accurate log of the drilling of such well, such log to show the character and depth of the formation passed through or encountered in the drilling of such well, and particularly to show the location and depth of the water bearing strata, together with the character of the water encountered from time to time, and to show at what point such water was shut off, if at all, and if not, so state in such log; and show the depth at which oil or gas bearing strata is encountered, and the character of same, and whether all water overflowing or underlying such oil or gas bearing strata was successfully and permanently shut off, so as to prevent the percolation or penetration into such oil or gas bearing strata. The said log to be verified by the person in charge of the drilling and attested as correct by the owners of the well, and shall be filed with the county clerk of the county in which said well is located, and preserved by him in the public records. The said log shall definitely describe the location of the well. [Acts 1917, No. 166, § 6, p. 890; C. & M. Dig., § 7804; Pope's Dig., § 9860.]

Compiler's Note.

This section may be superseded by Rule B-5 of the Oil and Gas Commission, which reads:

**RULE B-5 WELL RECORD.**

"During the drilling or recompletion of every well, the owner, operator, contractor, driller or other person responsi-
ble for the conduct of drilling operations shall keep adequate records of the well being drilled, all of which shall be accessible to the Commission and its agents at all reasonable times.

Upon completion or recompletion of the well, the operator, contractor, driller or other person responsible for the conduct of the drilling operation shall file with the Commission:
1. Properly filled out Well Completion Report.
2. Any electric logging or surveying of the well bore.
3. For a lease that was previously nonproductive, a Certificate of Compliance & Authorization to Transport is required.
4. Application to Abandon, if applicable.
5. Report of Abandonment, if applicable.

"The appropriate reports listed above should be filed within 5 days of the actual completion of the well; however, if for any reason the records required, with the exception of the electric log, are not filed within the prescribed time above, then the official completion date for allowable purposes will normally be considered to be 5 days prior to the date of the filing of the Completion Report, when the day of filing is considered to be the first of the five days.

"For the electric log or other type survey made for the purpose of ascertaining the strata through which the well bore has penetrated, the operator shall be permitted to have a maximum time of 30 days from the date of official completion. Failure to comply with this provision, without specific approval of the Oil and Gas Commission in writing, shall be considered to be sufficient reason to cause the Certificate of Compliance and Authorization to Transport to be cancelled until such time as said electric legs are actually physically filed with the Oil and Gas Commission.

"If an operator makes a request, in writing, that the above record be kept confidential, then the request will be honored for a period not to exceed 90 days after the completion of the well, provided that the report or the data thereon, when pertinent, may be introduced in evidence in any public hearing before the Commission or any court, regardless of the request that such record be kept confidential."

Comparative Legislation. Log of drilling operation:

Cat. Deering's Codes, Public Resources Code, §§ 5210-5216.
Ohio Page's Rev. Code, § 1509.10.

53-207. Leak in apparatus for regulation or distribution of natural gas—Notice—Duty to repair—Penalty for failure to repair.—It is hereby made the duty of any person discovering any leak in any pipe line for the transportation of natural gas, or in any machinery, apparatus or device used in the regulation, distribution or transportation thereof, forthwith to notify the owner of said pipe line or other appliance, and also to notify the gas inspector of said leak. It is made the duty of the owner of such pipe line or other apparatus from which gas is escaping, to immediately repair the same. It is made the duty of the gas inspector, on receiving reliable information of such leak, or on personal knowledge thereof, to forthwith notify the owner of said pipe line or appliance of it and to immediately repair the same. Should the owner of such pipe line, apparatus, appliance or device fail to at once repair said leak, or use the utmost diligence to do so, he shall be subject to a penalty of not less than one hundred dollars [$100] nor more than one thousand dollars [$1,000] and a reasonable attorney's fee to be fixed by the court for the prosecuting attorney to be recovered in an action brought by the prosecuting attorney in the name of the State therefor. The proceeds of penalties collected shall be turned into the general fund of the county where the leak is located, to be used on the roads, bridges, or highways of said county, in the discretion of the county court. [Acts 1917, No. 166, § 7, p. 890; C. & M. Dig., § 7305; Pope's Dig., § 9361.]

Compiler's Note.

This section may be superseded by Rule B-34 of the Oil and Gas Commission, which reads:

"RULE B-34. Notification of Fire, Breaks, Leaks or Blow-Outs."

"All drillers, owners, operators and individuals having an interest in any oil and gas wells or pipe lines, oil receiving tanks, storage tanks, oil receiving and storage receptacles into which crude oil is produced, received, or stored, or
through which oil is piped or transported, shall immediately notify the
Commission by letter giving full details concerning all fires which occur at oil
or gas wells or tanks or receptacles owned, operated or controlled by them
or on their property, and all such persons shall report all tanks or receptacles
struck by lightning and any other fire which destroys oil or gas, and shall
immediately report any breaks or leaks in or from tanks or other receptacles
and pipe lines from which oil or gas is escaping or has escaped. In all such
reports of fires, breaks, leaks, or escapes, or other accidents of this nature, the
location of the well, tank, receptacle, or line break shall be given by Section,
Township, Range, and property, so that the exact location thereof can be readily
located on the ground. Such report shall likewise specify what steps have been
taken or are in progress to remedy the situation reported and shall detail the
quantity (estimated, if no accurate measurement can be obtained, in which
case the report shall show that the same is an estimate) of oil or gas lost, de-
stroyed, or permitted to escape. In case any tank or receptacle is permitted to
run over, the escape thus occurring shall be reported as in the case of a leak.
"The report hereby required as to oil
losses shall be necessary only in case such oil loss exceeds twenty-five [25]
barrels in the aggregate."

53-208. Gas to be confined within three days—Penalty.—It shall be
unlawful for any person, firm or corporation having possession or
control of any gas well, whether as contractor, owner, lessee, or man-
ger, to allow or permit the flow of natural gas of any such well to flow
into the open air without being confined to such well or pipe, of other
safe receptacles, for a longer period than three [3] days after the gas
shall have been struck and produced in such well. If such well cannot
be confined within three [3] days, the person controlling the same shall
continue with the utmost diligence to confine it as soon as possible.

Failure to comply with this section shall subject the person failing so
to do to the penalties and procedure provided in the next preceding
section, which shall be applicable here to. [Acts 1917, No. 166, § 8,
p. 890; C. & M. Dig., § 7306; Pope's Dig., § 9362.]

Compiler's Note.
This section may be superseded by
Rules D-12, D-13 of the Oil and Gas
Commission which are set as notes to
§ 53-292.

NOTES TO DECISIONS

Negligence.
Where a defendant owned a producing
well and was not guilty of negligence in
capping it or in permitting gas to es-
cape therefrom, but the capping pro-
duced a crater on another's land over
which the defendant had no control and
the plaintiff's intestate, while looking
at the escaping gas, was killed when the
escaping gas was ignited by another
spectator, the defendant was not liable.
Constandin Refining Co. v. Martin (1922),
155 Ark. 193, 244 S. W. 37.

53-209. Failure to confine gas—Right of others to confine gas—
Recovery of expenses.—In addition to the penalties described in the
preceding section for failure to confine natural gas, any person or
corporation lawfully in possession of lands upon which said gas well
is situated, or adjoining or adjacent thereto, or in the vicinity of such
well, may enter upon the lands on which such well is situated and take
possession of such well from which said gas is allowed to escape in
violation of such section, after the failure of party in control thereof
for ten [10] hours to use the utmost diligence to confine said gas, and
pack and tube such well, and shut in and secure the flow of gas, and
maintain a civil action in any court of competent jurisdiction in this
State against the owner, lessee, agent, or manager of such well, and
each of them, jointly or severally, to recover the cost and expense of
said tubing and packing, together with attorney's fees to be taxed as
part of the cost. [Acts 1917, No. 166, § 9, p. 890; C. & M. Dig., § 7307;
Pope's Dig., § 9363.]

Section 10 of Acts 1917, No. 166 is
compiled as § 41-2904.
53-210. Flambeau lights prohibited.—The use of natural gas for illuminating purposes in what are known as "flambeau" lights is a wasteful and extravagant use thereof, and is dangerous to the public good, and it shall therefore be unlawful for any company, corporation or person to use natural gas for illuminating purposes in what are known as "flambeau" lights in cities, towns, highways, or elsewhere; provided, that this shall not be so construed as to prohibit the use of such gas in what are known as "Jumbo" burners, enclosed in glass globes or lamps, or by the use of other burners of similar character so enclosed as will consume no more gas than "Jumbo" burners, provided, further, that this shall not apply to those engaged in drilling wells while the well is being drilled. A violation of this section shall subject the person so violating it to the penalties and proceedings provided in section 7 [§ 53-207], which is made applicable hereto. [Acts 1917, No. 166, §11, p. 890; C. & M. Dig., § 7309; Pope's Dig., § 9365.]

Compiler's Note.
The remainder of Acts 1917, No. 166 relating to the gas inspector and his duties are deemed superseded by §§ 53-101-53-125, particularly §§ 53-105, 53-116, 53-125. The remainder of Acts 1917, No. 166, read:

"Section 12. Gas inspector.—Appointment—Qualifications—Term.—The office of gas inspector is hereby created. The Gas Inspector shall have at least three [3] years experience in natural gas drilling operation, and possess technical knowledge of the properties of natural gas, and of geology so far as it relates to the subject of natural gas. The Governor shall appoint such person as gas inspector and commission him as such and he shall serve for a term of five years, and until his successor is appointed and qualified, and he is hereby vested with the duties and rights and powers hereinafter prescribed. [C. & M. Dig., § 7310; Pope's Dig., § 8966.]

"Section 13. Notice of drilling.—Examination by inspector.—Penalty for failure to give notice.—Fee.—Any company, person, or individual, drilling a well for natural gas or oil, shall notify the Gas Inspector of it, and the Gas Inspector shall examine the derrick, machinery, tools, and appliances, and see that they are sufficient for the purpose of efficient drilling, and that proper safeguards are provided for the drillers. Failure on the part of the operator to comply with the Gas Inspector's written directions in the respects above mentioned, shall render the company or individual subject to a penalty not less than one hundred dollars [$100] or more than one thousand dollars [$1,000] and subject to the same procedure in Section 7 [§ 53-207], which is made applicable hereto. The inspector shall be allowed a fee of $15.00 for such service, to be paid by the individual or company drilling the well. [C. & M. Dig., § 7311; Pope's Dig., § 9367.]

"Section 14. Notice of plugging well.—Supervision by inspector.—Fee.—Penalty for violation.—When a company or in-

individual drilling a well is required to plug it as provided in this act, he is to notify the Gas Inspector, who shall supervise the plugging and conform to the requirements of this act, and said Gas Inspector shall file a written report with the county clerk of the county in which the well is situated, stating in detail the work done, and he shall receive a fee of $25.00 from the company or individual owning the well. Should the company or individual plugging the well violate the provisions of this act in so doing, or in failing to do, or the written directions of the Gas Inspector, it shall be subject to a penalty of not less than $100 nor more than $1,000 and the procedure provided in section 7 [§ 53-207] which is made applicable hereto. [C. & M. Dig., § 7312; Pope's Dig., § 8968.]

"Section 15. Notice when gas or oil bearing sand reached.—Fee.—Penalty for violation.—Any company or individual drilling a well shall notify the gas inspector whenever it reaches gas or oil bearing sand or strata, whether said sand or strata are producing or not, and the Inspector shall at once visit the well and see that the provisions of this act in regard to protecting said oil or gas bearing sands or strata are complied with, and he shall receive a fee of $15.00 to be paid by the company or individual drilling the well, for his said services; provided, the person drilling the well shall not be required to stop drilling until the Inspector arrives. Failure of the individual or company drilling a well to comply with this act in regard to protecting gas bearing or oil bearing strata or sand, or to obey the written instruction of the Gas Inspector, shall render the company or individual subject to a penalty of not less than $100 or more than $1,000 and subject to the same procedure provided, in Section 7 [§ 53-207], which is made applicable hereto. [C. & M. Dig., § 7313; Pope's Dig., § 8969.]

"Section 16. Inspection of wells and pipe lines.—Owner notified of wastage —
Penalty—Inspection fee.—The Gas Inspector shall inspect all gas wells in process of drilling and all pipe lines in process of construction, and see that there is no wastage of gas, and that said wells and pipe lines are properly constructed to prevent wastage. If he finds any waste or wastage in a well, pipe, or other receptacle for gas, he shall at once notify the owner thereof, or, in his absence, the person in control thereof, of the same, with directions to immediately repair the same, and failure thereof shall subject the owner or person in control thereof, to a penalty of not less than $100 or more than $1,000 to be recovered as provided in Section 7 (§ 53-207), which is made applicable thereto. Each person, company or individual, drilling or owning an oil or gas well shall pay an inspection fee of $10.00 to the Gas Inspector, and any person, firm or corporation constructing or owning a pipe line shall pay the inspection fee of $10.00 for each five miles or fraction thereof. [C. & M. Dig., § 7314; Pope’s Dig., § 9370.]

“Section 17. Unreasonableness of Inspector’s requirements as defense in action for penalty.—In any action for penalty for failure to comply with directions of the Gas Inspector, the defendant may be permitted to show that the requirement was unreasonable and unnecessary, on proof of which the defendant shall be discharged. [C. & M. Dig., § 7315; Pope’s Dig., § 9371.]

“Section 18. Limitation on gas taken from well—Penalty for violation.—It shall be unlawful for any person, firm or corporation owning or operating any natural gas well, within the State of Arkansas, or selling gas therefrom, directly or indirectly, to draw from any well so owned or operated, in an amount exceeding in the aggregate 20 per cent of the open-flow test of the total volume of gas being produced out of the gas sands and said well; provided, however, if the rock pressure or volume of any gas producing area can be proved to have become depleted to such an extent that the gas will not flow of its own volition, and it becomes necessary to pump said gas, or by other artificial means procure gas from the aforementioned sands, then the first part of this section shall have no application while such a condition exists.

Any person, firm or corporation violating this section shall be subject to a penalty of $100 for each day or part of day of such violation; and this penalty may be recovered in an action therefor brought by the prosecuting attorney in the name of the State, and a fourth of the amount recovered in such action shall be allowed to the prosecuting attorney bringing the action, and one-fourth shall be paid to the Gas Inspector; the remaining half of the recovery shall be turned into the general road fund of the county where collected, to be used on the roads, bridges or highways of said county, in the discretion of the county court. [C. & M. Dig., § 7316; Pope’s Dig., § 9372.]

Section 19. [Emergency. Approved March 3, 1917.]”

53-211. Disposal of salt water by fields or pools established or brought in after July 1, 1957.—It shall be unlawful for any firm, person, corporation or individual to dispose of salt water produced in conjunction with the production of oil and/or gas into any of the streams, lakes, ponds and other surface waters of the State from any oil and/or gas pools or fields which are found, brought in or established on or after July 1, 1957. It is the intent of this Act (§§ 53-211, 53-212) to make it mandatory that salt water produced from any newly discovered oil and/or gas field, commencing with July 1, 1957, be disposed of by the producer of said salt water by either putting it in pits or re-cycling it back into the proper sand. [Acts 1957, No. 381, § 1, p. 1075.]

Cross-Reference.

Severance tax deduction on disposal of salt water, §§ 84-2113—84-2120.

Cited:

Sunray DX Oil Co. v. Thurman (1964), 238 Ark. 788, 384 S. W. (2d) 482.

53-212. Penalty for unlawful disposal of salt water—Injunction.—Should any firm, person, corporation or individual violate the provisions of this Act (§§ 53-211, 53-212), he shall be fined in any sum not less than one hundred dollars ($100) and up to one thousand dollars ($1,000), and each separate day shall constitute a different violation. In addition to the fine imposed in this Section, the Chancery Courts of
this State may enjoin the violator from continuing said unlawful disposal. [Acts 1957, No. 381, § 2, p. 1075.]

Cited:
Sunday DX Oil Co. v. Thurman (1964), 235 Ark 789, 384 S. W. (2d) 482.

53-213. Corporations for disposal of salt water—Creation authorized. --Corporations may be created in this State for the purpose of gathering, storing, impounding or otherwise disposing of salt water produced in the drilling and operation of oil wells in this State, and to prevent the flow of such water into the streams of this State. Such corporations shall be formed and governed by the general corporation laws of this State. [Acts 1957, No. 392, § 1, p. 1104.]

53-214. Subscribing, owning and voting of stock authorized.—Any person, corporation, association or partnership which is now or may hereinafter engage in the business of producing oil in this State, as well as any other person or firm, is hereby authorized and empowered to subscribe for, own, and vote stock in corporations created pursuant to and for the purposes described in Section 1 [§ 53-213] hereof. [Acts 1957, No. 392, § 2, p. 1104.]

53-215. Legislative purpose—Duty of state agencies. —It is the specific purpose and intent of the General Assembly in enacting this law [§§ 53-213—53-215] to authorize the creation of corporations to dispose of salt water produced in drilling and operating oil wells and to encourage the development of such corporations by persons, firms or corporations engaged in oil production in this State. In order to encourage and aid in the development of corporations to dispose of salt water arising from oil production, and in order to make it economical and practicable for oil producers in this State to develop such corporations and/or obtain the benefits of such corporations in disposing of salt water and thereby preventing pollution of streams and lakes in this State, the Arkansas Oil and Gas Commission and the Arkansas Water Pollution Control Commission and all other appropriate state agencies are hereby encouraged and directed to do and perform all acts within their power and authority to encourage the development of such corporations and assist oil producers in this State in obtaining the benefits for which said corporations are created. [Acts 1957, No. 392, § 3, p. 1104.]

Act Cumulative.

Section 4 of Acts 1957, No. 392, read:
"The provisions of this Act shall be cumulative to the existing laws of this State, and shall not be deemed to repeal or modify any of such existing laws unless directly in conflict herewith."

Repealing Clause.

Section 5 of Acts 1957, No. 392 repealed all laws and parts of laws in conflict therewith.

CHAPTER 3
LEASE OF OIL AND GAS LANDS

SECTION.
53-301. Leases of oil, gas and mining interests by churches, lodges and eleemosynary institutions.
53-302. Leases by persons invested with life estate.
53-303. Petition to lease by life tenant
—Contents.

SECTION.
53-304. Time for hearing on execution of lease—Oral testimony.
53-305. Determination by court.
53-301. Leases of oil, gas and mining interests by churches, lodges and eleemosynary institutions.—Except where otherwise provided for in the charter, constitution, or by-laws of any church, lodge or other eleemosynary [eleemosynary] institution, the trustee, deacon or other governing body shall have the right and authority to make, execute and deliver oil, gas and mining leases and mineral deeds upon lands, owned by said institutions, upon such terms and conditions as said governing body shall deem to be the best interest of said institutions and the majority vote of said body shall control in all such actions taken by said body. [Acts 1925, No. 628, § 1, p. 534; Pope’s Dig., §§ 10503, 11370.]

Compiler’s Note.
The bracketed word “eleemosynary” was inserted by the compiler.

Prior Leases Ratified.
Section 2 of Acts 1923, No. 628 (Pope’s Dig., §§ 10504, 11371), read: “All oil, gas and mineral leases and mineral conveyances heretofore made by the trustees, deacons, board of directors or other governing body of any such institution, where no provision had been made in the charter, constitution or by-laws for such action, are hereby ratified, confirmed and cured and the same shall be to all intents and purposes as valid and binding as though they had been done in compliance with this act.”

Section 1 of Acts 1923 (Ex. Sess.), No. 6, p. 91 (Pope’s Dig., § 1864), read: “All oil, gas and mineral leases, which heretofore have been executed by the board of directors of school districts of this State and trustees of cemeteries and churches of this State, covering the land of such districts, and which are defective or ineffectual by reason of any lack of authority of the directors to execute such leases, or by reason of the directors not having been directed and designated to execute the same by a majority of the electors at any legal meeting of the district, be and the same hereby are validated and made effectual as though said directors had full authority to execute such lease and a majority of electors had approved the same as set forth in section 5916 of Crawford & Moses’ Digest. [Repealed].” Provided, however, that no oil, gas and mineral lease executed by and on behalf of school districts, which has forfeited by failure of the lessee or his assignee to comply with the terms of the lease, shall be validated and made effectual by this act.”

See also §§ 80-513, 80-514.

Repealing Clause.
Section 3 of Acts 1923, No. 628 repealed all laws and parts of laws in conflict therewith.

Emergency.
Section 4 of Acts 1923, No. 628, read: “This Act being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage.” It was approved March 23, 1923. However, such emergency clause would be invalid under decisions in Gentry v. Harrison (1912), 194 Ark. 916, 110 S. W. (2d) 497, and Cunningham v. Walker (1939), 198 Ark. 928, 132 S. W. (2d) 24.

Cross-References.
Contracting laborers and materialmen’s lien on oil and gas leases, § 61-701.
Directors for school districts may execute leases, § 80-513.
Dower interest in oil and gas leases, §§ 61-204, 61-205.
Guardian’s authority to lease, § 57-631.
Lease of land by trustees of tuberculosis sanatorium, § 7-304.
Lease of state lands, § 10-1008.
List of deeds and contracts of oil and gas interests furnished assessor, § 84-408.
Measurement of oil removed from lease, § 53-505.
Mineral rights under navigable waters artificially created by state or United States, §§ 10-1010—10-1015.

Penalties for trespassing on oil or gas properties, §§ 41-2901—41-2903.

Removal permits from navigable waters granted by revenue department, § 84-1785.

Sale of oil and gas rights for delinquent taxes, § 84-1122.

Text Books.
Arkansas Titles (Jones), §§ 405-438.

Collateral References

Abandonment of oil or gas lease by parol declaration, 13 A. L. R. (2d) 951.

Apportionment of royalties, where right thereto commences or ends during accrual period, 126 A. L. R. 52.

Casings, rights and remedies in respect of, under oil and gas lease, 39 A. L. R. 1265.

Commencement of development within fixed term as extending term of oil and gas lease, 67 A. L. R. 526.

Construction and effect of provision in mineral lease excusing payment of minimum rent or royalty, 28 A. L. R. (2d) 1013.

Construction and effect of provision in oil or gas deed or lease for payment of damages for injury to "crops" or "growing crops," 87 A. L. R. (2d) 235.

Construction of oil and gas lease as to lessee's right and duty of geophysical or seismograph exploration or survey, 28 A. L. R. (3d) 1426.


Conveyance of lands, minerals, or mineral rights, as raising implied obligation to drill and to develop for oil and gas, 137 A. L. R. 415.

Covenants in oil and gas lease as running with land, 79 A. L. R. 496.

Decreasing production on neighboring property caused by secondary recovery of oil and gas, 93 A. L. R. (2d) 455.

Deed or mortgage of real estate as affecting title to oil and gas after existing lease, 94 A. L. R. 660; 140 A. L. R. 1250.

Delay rentals or bonus as included in reservation or assignment of oil or gas "royalty" or interest therein, 122 A. L. R. 959.

Drilling well, assignment of oil and gas lease, or contract of assignment, as raising implied obligation as to, 111 A. L. R. 514.

Duty of lessee under oil or gas lease as regards marketing, delivery for marketing, of oil or gas discovered, 71 A. L. R. (2d) 123.

Exemption of oil and gas lessee to deny lessor's title, 87 A. L. R. (2d) 602.

Exclusion of oil or gas in lease by mention of the other, 37 A. L. R. (2d) 1447.

Expenses and taxes deductible by lessee in computing lessor's oil and gas royalty or other return, 73 A. L. R. (2d) 1055.

Forcible entry and detainer or unlawful detainer as applicable in case of "lease" of oil and gas, 107 A. L. R. 661.

Gasoline from casing-head gas, rights in respect to, under oil and gas lease, 82 A. L. R. 1304.

Implied obligation of lessee under oil or gas lease to explore and develop further after discovery of oil or gas, in absence of showing reasonable expectation of profit to lessee from further drilling, 79 A. L. R. (2d) 792.

Joint adventure, agreement concerning oil and gas as, 138 A. L. R. 956.

Lessor's acceptance of royalty under gas and oil lease after lease has expired as precluding him from insisting upon expiration, 113 A. L. R. 396.

Liability for injuries by secondary recovery of oil and gas, 93 A. L. R. (2d) 455.

Liability for injury to property occasioned by oil, water or the like flowing from the well, 19 A. L. R. (2d) 1025.

Mistake, inadvertence, accident, etc., as ground for relief from termination or forfeiture of oil and gas lease for failure to complete well or commence drilling, 5 A. L. R. (2d) 959.

Oil and gas as "minerals" within deed, lease or license, 37 A. L. R. (2d) 1440.

Oil and gas as minerals within meaning of deed, lease, or license, 86 A. L. R. 386.

Oil and gas royalty as real or personal property, 90 A. L. R. 770; 101 A. L. R. 884; 131 A. L. R. 1371.

Oil or gas "royalty" within language of conveyance or assignment, 4 A. L. R. (2d) 492.

Operator's or lessee's responsibility for production of oil or gas in excess of allowance as affected by his ignorance of excess production, or his failure to profit thereby, 150 A. L. R. 1149.

Overriding royalty as affected by surrender, forfeiture, abandonment, or loss of lease, 135 A. L. R. 557.

Production on one tract as extending term on other tract, where one mineral deed conveys oil and gas in separate tracts for so long as oil and gas is produced, 83 A. L. R. (2d) 1169.

Recovery for unauthorized geophysical or seismograph exploration or survey, 67 A. L. R. (2d) 444.

Rents or royalties, acceptance of, as waiver of forfeiture for breach of covenant or condition regarding drilling of wells, 80 A. L. R. 461.
Respective rights of owners of different parcels into which land subject to an oil and gas lease has been subdivided. 64 A. L. R. 534.

Right and measure of recovery for breach of obligation to drill exploratory oil or gas wells. 4 A. L. R. (3d) 284.

Right of co-lessee in community oil or gas lease to lease production and royalties under such lease by operations on land not covered thereby or released therefrom. 167 A. L. R. 1225.

Right of lessee to pressurize, for secondary recovery of oil or gas, against lessor's objection. 23 A. L. R. (2d) 456.

Right of mineral lessee to deposit top soil, waste materials and the like upon lessor's additional land not being mined. 26 A. L. R. (2d) 1453.

Rights and liabilities with respect to natural gas reduced to possession and subsequently stored in natural reservoir. 94 A. L. R. (2d) 543.

Rights and remedies of owner or lessee of oil or gas land or mineral or royalty interest therein, in respect of waste of oil or gas through operations on other lands. 4 A. L. R. (2d) 198.

Rights in respect of rents or royalties earned under an oil and gas lease in which owners of different tracts join as lessors. 116 A. L. R. 1267.

Rights of grantee of oil and gas upon severance from surface. 146 A. L. R. 880.

Rights of parties to oil and gas lease after expiration of fixed term where production temporarily ceases. 100 A. L. R. (2d) 885.

Rights of parties to oil and gas lease or royalty deed after expiration of fixed term where production temporarily ceases. 100 A. L. R. (2d) 885.

Rights of lessee for years and remaindermen inter se in royalties or rents under oil or gas lease. 18 A. L. R. (2d) 98.

Right to pressurize, for secondary recovery of oil or gas, as against objection of owner or operator of adjoining interest. 95 A. L. R. (2d) 456.

Sale or mortgage by lessee of interest in oil or gas to be produced, doctrine of potential possession or ownership as applied to. 88 A. L. R. 1251.


"Shoot in" royalty payments under oil and gas lease as affecting duty to develop leased property. 96 A. L. R. (2d) 363.

Surface owner's right of access to solid mineral seam or vein conveyed to another, or through the space left by its removal, to reach underlying oil and gas. 25 A. L. R. (2d) 2150.

Surrender clause as affecting validity of oil or gas lease. 3 A. L. R. 378.

Tenancy at will under oil and gas lease after expiration of fixed term where production temporarily ceases. 100 A. L. R. (2d) 909.

Validity of compulsory pooling or unitization statute or ordinance requiring owners or lessees of oil and gas lands to develop their holdings as a single drilling unit and the like. 37 A. L. R. (2d) 434.

What amounts to development or operation for oil and gas within terms of habendum clause extending primary term while the premises are being "developed or operated." 96 A. L. R. (2d) 323.

What constitutes oil or gas royalty or royalties, within language of conveyance, exception, reservation, devise or assignment. 4 A. L. R. (2d) 482.

Zoning regulations, validity of lease which contemplates or provides for acts by a party that at the time of the contract would be contrary to. 128 A. L. R. 87.

53-302. Leases by persons invested with life estate.—Whenever any land in this State may hereafter be, or shall have heretofore been, devised by will or conveyed by grant to any person by any language which at common law would have vested in such person an estate in fee tail, then such person who at common law would have been invested with a fee tail estate in said lands, and who under the provisions of section 1499 of Crawford & Moses' Digest of the Statutes of the State of Arkansas [§ 60-405], is or shall be invested with a life estate therein, is hereby authorized and empowered to execute oil and gas leases on said land, in the manner hereinafter set out. [Acts 1929, No. 76, § 1, p. 370; Pope's Dig., § 1800.]

Section to Section Reference.
Sections 53-302—53-310 are referred to in § 52-223.

NOTES TO DECISIONS

Constitutionality.
This act is not unconstitutional as impairing the obligation of a contract with respect to remainderman since such provision of the Constitution applies only to those contracts which create a

Cited:
vested beneficial interest, and is not unconstitutional for depriving remainderman of property without due process, because his interest is not property within due process clause of the Constitution. Love v. McDonald (1941), 201 Ark. 882, 145 S. W. (2d) 170.

53-303. Petition to lease by life tenant—Contents.—Whenever any such person shall desire to lease any such land for the production of oil and gas, he shall file a petition, duly verified, with the chancery court of the county in which said lands or the greater part thereof may be situated, praying for authority to execute such lease. Such person shall make as parties respondent to such petition all persons then in being, who, under the terms of the will or grant, would become invested with title to said lands or any interest therein should the death of the life tenant occur on the date of the filing of said petition. Said petition shall set out:

(a) The description of the land.
(b) From whom he acquired his title, and shall attach a certified copy of the will or deed under which he claims.
(c) The name of the proposed lessee, the true consideration for said lease, and a general statement as to to the provisions of said proposed lease.
(d) Said petition shall pray for authority to execute such lease, and shall further pray that the court award such life tenant with title absolute in such proportion of the oil, gas and other minerals, in, on and under said lands (not exceeding a 1/16 interest), together with such proportion of the consideration and delay rentals, as the court shall determine is fair compensation to such life tenant as damages to the life estate by the use of the surface of said lands in the exploration for and the development of oil and gas therefrom, and such petition shall further pray for the appointment of a trustee to receive and hold such moneys, rents and royalties as shall accrue to the contingent remainder estate under said lease. [Acts 1929, No. 76, § 2, p. 370; Pope's Dig., § 1801.]

Compiler's Note.
The words enclosed in parentheses so appeared in the act.

53-304. Time for hearing on execution of lease—Oral testimony.—All proceedings had under the provisions of this act [§§ 53-302–53-310] shall stand for trial at any time the court shall be in session twenty [20] days after service of summons on the respondents, and the same may be heard on oral testimony taken in open court. [Acts 1929, No. 76, § 9, p. 370; Pope's Dig., § 1808.]

Compiler's Note.
Section 8 of Acts 1929, No. 76 is compiled as § 53-310.

Emergency.
Section 10 of Acts 1929, No. 76, read: "All laws and parts of laws in conflict herewith are hereby repealed, and it appearing to the General Assembly that the immediate passage of this act is necessary in order to prevent waste of valuable oil lands conveyed to persons and the heirs of their bodies, making said act necessary for the immediate preservation of the public peace, health and safety, an emergency is hereby declared and this act will be in force and effect on and after its passage." Approved March 2, 1929.

53-305. Determination by court.—The court shall consider said petition, and may in its absolute discretion require that such other persons as it may deem proper, be made parties to the proceeding, and may hear testimony to determine whether or not the execution of said lease is advisable. He shall also determine what part of the consideration
therefore, the rentals accruing thereunder, and what proportion of the oil, gas and minerals should be allowed to the life tenant in fee simple as compensation for the damage to his life estate on account of the execution of said lease. [Acts 1929, No. 76, § 3, p. 370; Pope's Dig., § 1802.]

53-306. Order authorizing execution of lease—Proportionate part of minerals vested in life tenant in fee—Trustee for interests of remaindermen—Royalties.—If the court after such hearing shall determine that such lease should be executed, he shall enter an order authorizing the life tenant to execute said lease. The court shall

(a) Determine the extent to which the estate of the life tenant may be damaged or impaired, by the development and operations of said property for oil and gas, and the court may allow such life tenant as compensation all or any part of the consideration paid for said lease, and all or any part of the rentals which may accrue on account of delay in beginning operations, and such proportion of the oil, gas and minerals in, on and under said lands (not to exceed an undivided 1/16 interest therein). The order of the court, upon the approval and confirmation of the lease as hereinafter provided, shall vest in such life tenant title absolute in fee simple in and to such proportionate part of the consideration, delay rentals, and mineral interest so awarded to him by the court, which interest shall be free and clear of any limitations, conditions or restrictions imposed by the will or deed by which he acquired title, and free and clear of any present or future claim of any person or persons asserting or attempting to assert a reversional or a remainder interest therein on account of such deed or will.

(b) Appoint some suitable person as trustee for the benefit of the contingent remaindermen and reversioners, and require that such trustee shall execute bond in such sum as the court may deem proper.

(c) Direct and authorize the life tenant after the filing of the bond by the trustee, to execute to the lessee an oil and gas lease covering said lands, which lease shall reserve as royalty not less than 1/8 of the oil and gas which may be produced, saved and marketed from said lands. Of such royalty so reserved, the life tenant shall receive such proportion as the mineral interest allowed to him by the court as damages bears to the amount of royalty reserved under said lease, i.e., if the court allows the life tenant a 1/16 interest and the lease reserves 1/8 as royalty the life tenant would be entitled to receive one-half [1/2] of the royalty.

(d) Make such further orders in the premises as may seem equitable and just. [Acts 1929, No. 76, § 4, p. 370; Pope's Dig., § 1803.]

Compiler's Note.
The words enclosed in parentheses so appeared in the act. Cross Reference.
Additional bond may be required of trustee, § 53-309.

53-307. Confirmation of lease by court—Effect.—After the trustee shall have executed the bond required by the court, the life tenant shall execute and present to the court for his examination, the oil and gas lease so authorized, which lease shall show what part of the consideration, rents and royalties shall be paid to the life tenant and what part to the trustee. If the court shall find said lease conforms to his previous orders, and shall be further satisfied that the consideration therefor has been paid to the trustee and the life tenant in conformity with the previous order of the court, he shall approve said lease and confirm the sale thereof, whereupon said lessee shall become vested with such lease-
hold interest in and to the oil, gas and other minerals, in, on and under said lands, free and clear of any limitations, restrictions, or conditions imposed upon said lands in the grant or will under which the life tenant acquired title to said lands, and free and clear of any present or future claim of any person or persons asserting or attempting to assert a reversional or remainder interest therein on account of such deed or will, and subject only to the conditions imposed by said lease. [Acts 1929, No. 76, § 5, p. 370; Pope’s Dig., § 1804.]

53-308. Order of confirmation divests title of contingent remaindermen.—The order of the court fixing the proportionate part of the minerals allowed to the life tenant as compensation for damages, and the order confirming the execution of the lease, shall operate to work a divestiture of title of the contingent remaindermen, and each of them, in and to the proportionate part of the minerals allowed to such life tenant, absolutely, and in and to the leasehold estate in so far as said interest is conveyed by said lease, and free said respective interests of any limitations, restrictions, or conditions imposed by the original will or deed. [Acts 1929, No. 76, § 6, p. 370; Pope’s Dig., § 1805.]

NOTES TO DECISIONS

Constitutionality.
The person whose status as a remainderman is created by deed conveying to a person and his bodily heirs, or the heirs of his body, cannot, prior to termination of the life estate, know whether he will predecease the life tenant, nor can he ascertain the extent of the prospective estate until possibility of issue of the life tenant is at an end; hence the expectancy, while having possibility of value, is not properly within contemplation of the due process clause of the state and federal Constitution. Love v. McDonald (1911), 291 Ark. 882, 148 S. W. (2d) 170.

53-309. Trustee under control of chancery court.—Removal or resignation.—Successor.—Investment of funds.—Compensation.—Additional bond.—Accounting.—The trustee shall be under the continuing control of the chancery court. Said court may remove said trustee at will, and on the death, removal from the county, or resignation of the trustee, such court may appoint his successor. Said trustee, by and with the consent and approval of the court, may invest the funds coming into his hands in such securities as guardians are authorized to invest the moneys of their wards. Said trustee shall be allowed as compensation for his services such sum as the court may fix, not exceeding five per cent [5%] of moneys collected by him. The court may at any time require said trustee to execute an additional bond. Said trustee shall faithfully account for all moneys coming into his hands, and upon the death of the life tenant shall pay over to the person or persons then entitled thereto all of said moneys so accrued upon order of the said chancery court. [Acts 1929, No. 76, § 7, p. 370; Pope’s Dig., § 1806.]

Cross Reference.
Appointment and bond of trustee.
§ 53-306.

53-310. Expiration, forfeiture or cancellation of lease.—New lease authorized.—If any lease executed under the provisions of this act [§§ 53-302—53-310] shall forfeit, expire, become cancelled, or be rescinded before the death of the life tenant, said life tenant may execute a new lease in the manner provided by this act, but in such case the court shall not allow him any further proportion of the minerals, but may allow him all or any part of the consideration and the rentals as
may seem to the court to be equitable and just. [Acts 1929, No. 76, § 8, p. 370; Pope's Dig., § 1807.]

Compiler's Note.
Section 9 of Acts 1929, No. 76 is compiled as § 52-304.

53-311. Conveyances by reversioner or remaindermen to life tenant or his lessee binding in certain cases.—Whenever a life estate in lands has been in existence for thirty [30] years and oil has been produced from such lands for twenty [20] years under an oil and gas lease or leases executed by a life tenant, to whom the creator of the life estate had subsequently conveyed or attempted to convey his remaining interest in such land, and where all of the contingent remaindermen in esse at the time of the initial production of such oil have attempted to convey their interests by warranty deeds to such life tenant, or have executed and delivered, either in person or by guardian, an oil and gas lease or leases covering said lands to such life tenant's lessee, then, and in that event, all such warranty deeds and all such oil and gas leases shall be binding upon all contingent remaindermen who executed such warranty deed or deeds, or who executed such oil and gas lease or leases, whether in person or by guardian, upon their heirs and assigns, and upon all persons who heretofore have become or hereafter might become contingent remaindermen, to the same extent and with like effect as though the remainders had been vested at the time of the execution of such warranty deed or deeds and such oil and gas lease or leases. And where all of the contingent remaindermen in esse at the time of the initial production of oil shall have heretofore or hereafter conveyed or attempted to convey their interest in such land to the life tenant, then, and in that event, the fee title to said land shall be deemed vested in said life tenant free from any and all contingent remainders. [Acts 1945, No. 155, § 1, p. 362.]

Emergency.
Section 2 of Acts 1945, No. 155, read: "Whereas, it has been found that many titles are in a state of uncertainty and that the owners of lands in this state are suffering losses by reason of the said uncertainty of titles, an emergency hereby declared and this act, being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force and effect from and after its passage and approval." Approved March 2, 1945.

53-312. Forfeiture of oil, gas or mineral leases—Duty of lessee to cancel or release—Method of showing release on record.—It shall be the duty of each person holding an oil, gas or other mineral lease for prospecting and exploiting for oil, gas or other minerals, upon any real estate in the State of Arkansas, upon forfeiting the rights to further prospect on such lands by failure to pay any rental or to perform any condition imposed by the terms of the lease on the lessee, or otherwise forfeiting such rights under said lease, upon the notice hereinafter prescribed by the lessor, to execute a release to the grantor, or otherwise remove any cloud or encumbrance on the title to such lands by reason of any such forfeited lease: provided, it shall be sufficient if the lessee in the original lease, or his assignee of record, shall indorse on the margin of the record of the original lease a cancellation of [or] release of same. Indorsing on the margin of the record of the original release such words as "Forfeited and Cancelled" followed by the date of entry and the signature of the owner of the lease of record (either the original lessee or the then owner by proper assignments of record), attested by the recorder, shall be sufficient. No such satisfaction or cancellation on the margin of the record shall be sufficient unless it is
attested by the recorder in person or by deputy. No person shall be required to release of record any portion of an original lease which he does not own, but is responsible only for that portion of the lease to which he hold[s] title of record. [Acts 1921, No. 192, § 1, p. 251; 1923, No. 170, § 1, p. 139; Pope’s Dig., § 10565.]

Compiler’s Notes.
The bracketed word “or” and the letter “s” were inserted by the compiler.
The words in parentheses so appeared in the act.

Amendment.
The 1923 amendment in the first sentence, substituted the word “prospect” for “prospecting,” and inserted the phrase “by the terms of the lease.” It also added the proviso clause to the first sentence and added the remainder of the section.

Cross-References.
Lease forfeited where lessee receives more than royalty owner, § 53-514.
Lease voidable upon violation of gas measurement provision, §§ 53-504, 53-505.

Legal Periodicals.
Proposed Arkansas Title Standards, 16 Ark. L. Rev. 376.

53-313. Notice to lessee to release forfeited lease—Damages for failure to release.—Any owner of lands upon which a lease for the development of oil or gas, or other minerals has been given, and the lessee forfeits his rights at any time to further prospect for such minerals upon said lands, by reason of a failure to pay periodical rentals, or to perform other conditions that nullify the lease as to lessee’s rights therein, may give written notice, serve in the manner of a legal summons upon the lessee, demanding that said lessee execute and place on record a release which in effect will remove any cloud existing upon the title of such lands as provided in section 1 [§ 53-312]: and upon failure of said lessee to comply with said notice, he shall be liable to the lessor or owner of said lands in double damages in whatever sum the owner of such lands may sustain by reason of said cloud or encumbrances upon said lands, after thirty (30) days from the service of said notice, not less than two [2] annual rentals as fixed by the original lease and all costs, including a reasonable attorney’s fee to be fixed by the court. [Acts 1921, No. 192, § 2, p. 251; 1923, No. 170, § 2, p. 138; Pope’s Dig., § 10565.]

Amendment.
The 1923 amendment inserted the words, “as provided in section 1,” following the words, “upon the title of such lands”; and inserted the word, “double” following the words, “owner of said lands” and added the remainder of the section beginning with the words, “not less than two (2) annual rentals.”

Repealing Clause and Emergency.
Section 3 of Acts 1921, No. 192, read: “All laws and parts of laws in conflict herewith be and the same are hereby repealed, and this act being necessary for the public peace, health and safety, an emergency is hereby declared, and this act shall take effect and be in force from and after its passage.” Approved March 1, 1921.

NOTES TO DECISIONS

Good Faith.
Lessor was not entitled to double damages for technical forfeiture of lease where the lessee in good faith contended that the lease was still in full force and the provisions of the lease were such that a possible and reasonable construction might support lessee’s contention, in the absence of a finding by the court that the lease had in fact been aban-

Where defendant lessee, in good faith, contended and at time of decision was still contending that lease was in full force and effect at time of decision of case and the provisions of the lease were such as to support the contention of the lessee in absence of finding by the court that the lease had been abandoned, the
provisions of §§ 53-312—53-314 were inapplicable and plaintiff was not entitled to double damages. Hill v. Larcon Co. (1955), 131 Fed. Supp. 469.

This section was not applicable to a lessee under a lease covering the mining of bauxite who contended that the lease had not been forfeited. Prewitt v. Chambers (1946), 209 Ark. 807, 194 S. W. (2d) 186.

53-314. Failure to pay rental instalment—Indorsement of forfeiture by landowner—Effect.—If any instalment of rental due under any such lease is not paid when due according to the terms of the original lease, thus causing a forfeiture and termination of the lease, the then owner of the fee in the lands affected may indorse upon the margin of the record of the original lease a statement to the effect that such rental has not been so paid and that the lease is, therefore, forfeited, which indorsement shall be signed by the landowner and dated and attested by the recorder, and shall be notice binding upon all subsequent purchasers or holders under the original lease, and shall be prima facie evidence of the termination and forfeiture of such lease; provided, if any person shall wrongfully or falsely make any such indorsement, or cause the same to be done, he shall be liable for double damages to any person injured or damaged thereby; and, provided further, this section shall not relieve the owner of the lease from the duty of clearing the record as provided by section one (1) [§ 53-312] of this act. [Acts 1925, No. 170, § 8, p. 138; Pope’s Dig., § 10507.]

Repealing Clause and Effective Date.

Section 4 of Acts 1923, No. 170, read: “All laws and parts of laws in conflict herewith are hereby repealed; and this act shall take effect and be in force from and after its passage.” It was approved February 28, 1923, however, such effective date would be invalid under decisions in Arkansas. Tax Comm. v. Moore (1912), 103 Ark. 48, 145 S. W. 199, and Cunningham v. Walker (1925), 168 Ark. 928, 192 S. W. (2d) 24.

Cross-Reference.


53-315—53-320. Deceased lessee or trustee. [Repealed.]

Repeal.

These sections (Acts 1939, No. 143, §§ 1-5, p. 331) relating to the rights of guardians of deceased lessees and the method of transferring rights on the death of a trustee or lessee were repealed by Acts 1948, No. 140, § 236. For new law on same subject see § 57-651.

CHAPTER 4

PARTITION OF OIL AND GAS LEASE INTERESTS

SECTION.

53-401. Partition allowed when no production and no outstanding lease covering entire leasehold estate.

53-402. Petition—Parties.

53-403. Service of summons.

53-404. Intervention.

53-405. Authority of guardians.

53-406. Lease before sale—Appointment of receiver—Lease by receiver—Effect.


53-408. Necessary parties—Effect of sale or lease.

53-409. Retrial on motion of defendant constructively summoned.

53-401. Partition allowed when no production and no outstanding lease covering entire leasehold estate.—Whenever any land in fee, the oil and/or gas in, on and under such lands, situated in the State of Arkansas, shall be owned by two [2] or more persons, firms or corporations in joint tenancy, in common or in coparcency, and there shall be
no actual production therefrom of oil and/or gas, and no outstanding oil and gas lease thereon covering the entire leasehold estate, any one (1) or more of the owners of said land in fee, and of the oil and/or gas interest on and in such land, may have a sale and partition of the entire oil and gas leasehold interest therein and thereon, in the manner hereinafter provided. [Acts 1935, No. 15, § 1, p. 33; Pope's Dig., § 10549.]

NOTES TO DECISIONS

ANALYSIS

Constitutionality.

Discretion of court.

Sale of oil and gas rights for delinquent taxes, § 34-1122.

Leasehold working agreement.

Refusal to drill.

Constitutionality.

This act is not unconstitutional against contention that it denies due process and confers special privileges. Overton v. Porterfield (1944), 206 Ark. 784, 177 S. W. (2d) 785.

Discretion of Court.

Where one cotenant owned one-eighth interest in the fee and minerals and wanted to lease land for oil and gas development, court did not abuse its discretion in awarding partition and sale. Overton v. Porterfield (1944), 206 Ark. 784, 177 S. W. (2d) 785.

It was within the court's discretion to refuse or grant a partition of oil and gas leasehold estates, although a remainderman still had an interest in the leased land and a life tenant was still living. Oliver v. Culpepper (1945), 209 Ark. 326, 190 S. W. (2d) 457.

While the court has discretion to grant or deny relief in order to prevent the right to partition from becoming a weapon of fraud or oppression in the hands of the financially fortunate who might use the right as a means of foreclosure of an owner of limited means, the invocation of such discretion is a matter of defense to be pleaded and proven and did not exist where the defendants did not plead that a decree of partition or sale would constitute fraud or oppression against them. Schnitt v. McKeever (1968), 244 Ark. 377, 427 S. W. (2d) 202.

Duty to Order Sale.

The statute does not impose the imperative duty on the court to order a sale in every case where a petition for partition and sale of the oil and gas leasehold is filed by one or more cotenants in compliance with this statute. Overton v. Porterfield (1944), 206 Ark. 784, 177 S. W. (2d) 785.

Leasehold Working Agreement.

This and the following sections do not apply to partition of a leasehold working agreement. Pasteur v. Niewanger (1955), 226 Ark. 486, 290 S. W. (2d) 882.

Refusal to Drill.

That lessor owned the surface but only one-half of the minerals did not excuse lessee's refusal to drill. Poland v. Lion Oil Refining Co. (1943), 205 Ark. 978, 167 S. W. (2d) 492.

53-102. Petition—Parties.—Any such owner, or owners, desiring a sale and partition of said oil and gas leasehold interests shall file, in the chancery court of the county in which said lands, or the greater part thereof lie, a written petition, describing the lands in and under which said oil and gas interests lie, and shall make as parties defendant all owners of the various interests in said oil and gas lease rights on and in said lands, the amount of interest held by each, with a prayer that the whole of said oil and gas lease rights be sold, and that the money derived from such sale be divided among said owners in proportion as their interest shall bear to the whole. [Acts 1935, No. 15, § 2, p. 33; Pope's Dig., § 10550.]

Cross-Reference.

Wives of owners as necessary parties, § 55-408.

53-103. Service of summons.—Summons shall be issued and served as in other cases in chancery and if any defendant shall be a nonresident of the State, or his whereabouts unknown to the plaintiff, such person may be constructively summoned, as provided in sections 1159 to 1163.
53-404. Intervention.—Any person having, or claiming, an interest in the land in fee, or in any oil and gas leasehold rights, not made a party in the petition may appear and intervene in said cause. [Acts 1935, No. 15, § 4, p. 33; Pope's Dig., § 10552.]

53-405. Authority of guardians.—The statutory guardian of an infant or a person of unsound mind may unite in the petition in conjunction with his ward; and any such infant, or person of unsound mind, may be made party defendant, in which case his guardian may appear and defend for him; and if such guardian does not so appear and defend, the court shall appoint some discreet person for that purpose. [Acts 1935, No. 15, § 5, p. 33; Pope's Dig., § 10553.]

53-406. Lease before sale—Appointment of receiver—Lease by receiver—Effect.—If, at any time, after the filing of said petition and before a sale of the property, it should be made to appear to the court that the interests of the various owners could be more fully protected and the value of the various interests of the parties increased by the execution of an oil and gas lease providing for the prospecting and drilling for oil and/or gas upon the property involved in said suit, or upon property near thereto, the court may appoint a receiver who shall be authorized to enter into negotiations for the leasing of said property for the drilling and operating for oil and gas, and if said receiver finds that said property can be leased upon such terms as, in his opinion, is beneficial to the various owners, he shall file a petition with the court, setting out the results of his investigation and shall pray for authority to execute such a lease. If said lease shall provide for the payment of royalty of not less than one-eighth of the production, and shall otherwise appear to the court to be to the best interest of all the parties to the suit, the court shall order and direct the receiver to execute said lease upon such terms as the court may deem just and proper, and the person taking said lease shall be vested with the leasehold rights therein conveyed as fully and with like effect as if said lease had been executed by all of the owners of said oil and gas rights, and their wives. Leases executed by the receiver under the authority of the court, as provided in this section, shall not terminate with the termination of the suit for partition nor with the sale and confirmation of the oil and gas rights, but said leases shall continue in full force and effect according to their own terms and conditions as fully and with like effect as if they had been executed by the various owners and their wives, and any person thereafter purchasing said oil and gas rights, or any interest therein, either from the owners or from the commissioner of the court selling the same under the decree of sale and partition, shall take the same subject to the oil and gas lease so executed by said receiver. [Acts 1935, No. 15, § 6, p. 33; Pope's Dig., § 10554.]

NOTES TO DECISIONS

Sale by Commissioner.

This act does not contemplate that oil and gas lease can only be negotiated through a receiver appointed by the court, but it clearly contemplates a sale by a commissioner. Overton v. Porterfield (1914), 206 Ark. 784, 277 S. W. (2d) 786.
53-107. Procedure—Evidence authorizing lease.—In so far as the
same are not in conflict with this act [§§ 53-401—53-409], sections 8090
to 8126, inclusive, of Crawford and Moses' Digest [§§ 34-1801—34-
1838], relating to the partition of lands, shall apply to the partition of
interests in oil and gas leasehold rights on, in and under lands, provided,
however, that it shall not be necessary for the court to find that such
interests are not susceptible to partition in kind before he shall order the
execution of any such oil and gas lease, but it shall be sufficient to
justify the execution of such oil and gas lease on and covering said land
that the evidence show that it is desirable that the property be de-
developed for oil and gas as a unit, and that the value of the interest
owned by each of the parties would be more if the property were
developed and operated as a unit than if divided. [Acts 1935, No. 15, § 7,
p. 38; Pope's Dig., § 10556.]

52-108. Necessary parties—Effect of sale or lease.—All wives of the
various owners of said interests in said oil and gas rights shall be
necessary parties to the suit in partition and the sale of the said prop-
erty by the commissioner under the decree, or the leasing of said prop-
erty by the receiver as herein provided, shall effectively cut off all of
the right of dower and homestead of said wives in and to the property
rights and interests therein conveyed, leased or let. [Acts 1935, No. 15,
§ 8, p. 38; Pope's Dig., § 10556.]

53-109. Retrial on motion of defendant constructively summoned.—
Where a decree has been rendered under the provisions of this act
[§§ 53-401—53-409], against a defendant, or defendants, constructively
summoned and who did not appear, such defendants, or any one or
more of them, may, at any time within six [6] months, and not there-
after, after the rendition of the decree, appear in open court and move
to have the action re-tried, and security for costs being given, such
defendant, or defendants, shall be permitted to make defense and there-
upon the action shall be tried anew as to such defendant, or defendants,
as if there had been no decree, and upon the new trial the court may
confirm, modify or set aside the former decree, and may order the
plaintiff in the action to restore to any such defendant, or defendants,
any money of such defendant, or defendants, paid to them under such
decree, or any property of such defendants obtained by the plaintiff
under it and yet remaining in his possession, provided, however, that
no order made in such cause authorizing a receiver to execute such oil
and gas lease shall be set aside, or said lease cancelled where the motion
or petition to set aside such order or lease is filed more than thirty [30]
days after said order was made, nor in any event where development
has been begun, or completed, by the lessee under the terms of any such
lease. [Acts 1935, No. 15, § 8, p. 38; Pope's Dig., § 10557.]

Repealing Clause.
Section 10 of Acts 1935, No. 15 re-
pealed all laws and parts of laws in
conflict therewith.

CHAPTER 5

MEASUREMENT AND SALE OF OIL AND GAS—ROYALTIES

SECTION
53-501. Crude petroleum oil measured
in gauge-tanks—Exception.

SECTION
53-502. Oil and gas commission in su-
ervisory control—Record of
oil measurement—Rules and
regulations.
SECTION.  53-501. Crude petroleum oil measured in gage-tanks—Exception.—All crude petroleum oil produced in this State shall be measured in gage-tanks. The pipe lines through which such crude petroleum oil is conveyed from oil wells to such gage-tanks shall be placed on the surface of the ground and no by-passes shall extend from such pipe lines between such oil wells and gage-tanks; providing that this act [§§ 53-501, 53-502] shall not apply to oil wells in operation prior to the date of the passage of this act. [Acts 1939, No. 205, § 1, p. 564.]

SECTION.  53-502. Oil and gas commission in supervisory control—Record of oil measurement—Rules and regulations.—The Oil and Gas Commission shall have supervision and control of the measurement of crude petroleum oil produced in this State as set forth in section 1 [§ 53-501] of this act. The Commission shall make a daily record of the measurement of such crude petroleum oil and it is authorized and empowered to make reasonable and necessary rules and regulations for the enforcement of the purposes of this act [§§ 53-501, 53-502]. [Acts 1939, No. 205, § 2, p. 504.]

Repealing Clause.
Section 3 of Acts 1939, No. 205 repealed all laws or parts of laws in conflict therewith.

Emergency.
Section 4 of Acts 1939, No. 205, read: "This act being essential to insure an honest and accurate measurement of crude petroleum oil produced in Arkansas and necessary for the public peace, health and safety, an emergency is hereby declared to exist and this act shall be effective from and after its passage." Approved March 9, 1939.

SECTION.  53-503. Oil removed from lease to be measured—Record kept—Exception.—It shall be unlawful for any person, firm, corporation or association, being the owner and/or operator of any oil or gas well in this state, to take or remove any oil or oil bearing gas from any lease, unless said oil or gas so taken and removed from said lease be gauged or measured and a correct record of the amount of oil or oil bearing gas so taken or removed from such lease be kept. Provided, this bill shall not be construed to include oil bearing gas produced from so-called
"striper" wells the gas from which is not marketable. [Acts 1943, No. 261, § 1, p. 567.]

53-504. Lease voidable upon violation of measurement provision.—If any person or persons, firm, corporation, or association, operating and/or producing any oil or gas from any well of this state shall violate the terms of section 1 [§ 53-503] hereof, then, in that event their or its ownership in the lease under which said well is being operated shall be voidable and subject to cancellation upon suit or suits instigated by the owner or owners of the royalty and mineral interests of the leased premises upon which said violation occurs. [Acts 1948, No. 261, § 2, p. 567.]

53-505. Leasehold interest separable in case of violation by one party.—Cancellation.—In the event the mineral interests under such leased premises are owned by several different persons, firms, corporations, or associations, then the leasehold interest on the premises on which such violation occurs shall be declared separable and the interest in said leasehold as owned by the person or persons, firm, corporation, or association violating the terms of this act [§§ 53-503-53-505] shall be cancelled [cancelled]. [Acts 1943, No. 261, § 3, p. 567.]

Compiler's Note. The bracketed word "cancelled" was inserted by the compiler.

Repealing Clause and Effective Date. Section 4 of Acts 1943, No. 261 repealed all laws and parts of laws in conflict therewith and provided that the act should take effect after its passage and approval. It was approved March 18, 1943, however, such effective date would be invalid under decisions in Arkansas Tax Comm. v. Moore (1912), 103 Ark. 48, 145 S. W. 199, and Cunningham v. Walker (1939), 198 Ark. 298, 132 S. W. (2d) 24.

53-506. Purchases measured on one hundred per cent tank-tables, corrected for temperature—Discounts for waste or shrinkage unlawful.—It shall be unlawful for any person, persons, firm or corporation who may purchase any oil produced in this State to in any way discount, dock, or short such crude oil for waste, shrinking or other causes, but such purchases when computed shall be on one hundred per cent [100%] net oil measured on one hundred per cent [100%] tank-tables and corrected to sixty [60] degrees Fahrenheit. All production, runs to storage and deliveries are to be based on one hundred per cent [100%] tank-tables, with proper adjustments for temperature, B. S. and water. [Acts 1941, No. 397, § 1, p. 1165.]

53-507. Penalty for violating preceding section.—Any person, persons, firm or corporation found guilty of violating the provisions of this act [§§ 53-506, 53-507] shall be adjudged guilty of a misdemeanor and shall be fined in any sum not less than $500 nor more than $3,000. [Acts 1941, No. 397, § 2, p. 1165.]

Repealing Clause. Section 3 of Acts 1941, No. 397 repealed all laws and parts of laws in conflict therewith.

53-508. Royalties paid in lieu of drilling off-set wells—Drilling wells in adjacent units.—Where royalties are paid in lieu of drilling off-set wells on forty [40] acre units adjacent to forty [40] acre units already in production, the forty [40] acre units adjacent to said forty [40] acre unit receiving such royalty payments shall immediately after the signing of such agreement or contract become off-set units, and drilling
operations shall begin on each such adjacent forty [40] acre off-sets, to said forty [40] acre unit receiving royalty payments in lieu of drilling said well in not less than ninety [90] days thereafter. [Acts 1928, No. 348, § 1, p. 928.]

Separability.
Section 2 of Acts 1939, No. 348, read: "If any section, or part thereof, sentence, clause, or phrase of this act, shall for any reason be held unconstitutional, such holding shall not affect the validity of the remaining portions of the act."

Repealing and Emergency Clause.
Section 3 of Acts 1939, No. 348, read: "That all laws and parts of laws in conflict herewith are hereby repealed;

53-509. Royalty interests entitled to premiums and bonuses.—All purchasers of oil and gas shall pay to the royalty interest the same premium or bonus above the posted market price for oil or gas they pay to the lessee or lessee operator under any oil, gas or mineral lease on lands from which oil or gas may be produced under contract with the lessee or lessee operator. [Acts 1929, No. 222, § 1, p. 1057; Pope's Dig., § 10498.]

Cross-References.
Dower interest in royalty, §§ 61-204, 61-205.
Lease by receiver in action for partition, royalties, §§ 53-406.

53-510. Purchaser paying part of production cost or giving bonus or premium without paying share to royalty interest unlawful.—It shall be unlawful for any purchaser of oil or gas to enter into any contract with any lessee or lessee operator under any oil, gas or mineral lease, whereby such purchaser undertakes to pay any of the cost or expense of operation or production, steaming, treating or running oil or gas or any other bonus or premium under any name or subterfuge whatsoever, without providing for paying to the royalty interest its proportionate share according to interest therein. [Acts 1929, No. 222, § 2, p. 1057; Pope's Dig., § 10499.]

53-511. Purchasers to pay same price for royalty gas as operator or lessee is paid for his interest.—It shall be the duty of both the lessee, or his assignee, and any pipe line company, corporation or individual contracting for the purchase of oil or gas under any oil, gas or mineral lease to protect the royalty or lessors interest by paying to such lessor or his assigneess the same price including such premiums, steaming charges, and bonuses of whatsoever name, for royalty oil or gas that is paid such operator or lessee under such lease for the working interest thereunder. [Acts 1929, No. 222, § 3, p. 1057; Pope's Dig., § 10500.]

53-512. Contract for purchase of royalty gas at lesser price than paid to operator or lessee unlawful.—It shall be unlawful for any pipe line company, corporation or individual purchasing oil or gas from the operator or lessee of any oil, gas or mineral lease, to enter into any contract with such operator or lessee whereby such purchaser acquires the royalty oil or gas reserved in such oil, gas or mineral lease for any price less than the price paid the operator or lessee of such lease. [Acts 1929, No. 222, § 4, p. 1057; Pope's Dig., § 10500.]
53-513. Royalty interests paid at same time lessee or producer is paid—Waiver of time for payment—Monthly statements furnished royalty owner.—It shall be the duty of any purchaser of oil or gas to pay the royalty interest at the same time it pays the lessee or producer; provided the parties may expressly waive the time and manner of payment in writing; provided further, the purchaser shall at some time not later than the 12th day of each month furnish each royalty owner with a statement showing the correct amount of oil or gas purchased during the previous month together with the correct amount paid each interest therefor. [Acts 1929, No. 222, § 5, p. 1057; Pope’s Dig., § 10501.]

Compiler’s Note.
The word “oil” in the sixth line of this section read “all” in the act.

53-514. Forfeiture of lease upon lessee receiving more than share from sale—Purchaser to pay treble value.—Any leaseholder or operator who contracts for the sale of gas or oil to any pipe line company or other purchaser, under and by virtue of the terms of which the lessee receives a greater amount than the royalty owners in proportion to interest therein, or receives a bonus, or by any other means conspires with a purchaser to receive from the sale of said oil and gas more than his just proportionate share therefrom, shall forfeit his rights in and to said leasehold premises. And any pipe line company or other purchaser of oil and gas who contracts with any lessee as above set out to the injury of the royalty owners shall forfeit to the said royalty owners treble value of the amount of oil or gas runs thus wrongfully taken from the royalty interest. [Acts 1929, No. 222, § 6, p. 1057; Pope’s Dig., § 10502.]

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Mistake.
Where appellants owned mineral interest in forty-acre tract which was leased into 150-acre drilling unit on order of oil and gas commission under contract which appellants refused to sign, they could not invoke this section to compel purchaser of oil to forfeit treble the value of the royalty, the purchaser and lessee having simply acted on mistaken assumption that unitization order bound appellants and there was nothing to indicate a conspiracy. Dobson v. Arkansas Oil & Gas Comm. (1950), 218 Ark. 160, 236 S. W. (2d) 38.

53-515. Penalty for violations of act.—Any person willfully or maliciously violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof, fined in any sum of not less than $100 nor more than $500. [Acts 1929, No. 222, § 7, p. 1057.]

Compiler’s Note.
This section was not carried in Pope’s Digest.

Repealing and Emergency Clause.
Section 8 of Acts 1929, No. 222, read: “All laws and parts of laws in conflict herewith are hereby repealed and this act being necessary for the immediate preservation of the public peace, health and safety, an emergency is hereby declared and this act shall take effect from and after its passage.” It was approved March 27, 1929. However, such emergency clause would be invalid under decisions in Gentry v. Harrison (1937), 194 Ark. 316, 110 S. W. (2d) 497, and Cunningham v. Walker (1939), 198 Ark. 928, 132 S. W. (2d) 24.

Cross-Reference.
Leases by guardians, see § 57-633.

53-516. Standard gas measurement law.—This Act §§ 53-516—53-520 shall be known and may be cited as the “Standard Gas Measurement Law.” [Acts 1951, No. 214, § 1, p. 498.]
53-517. "Cubic foot of gas" defined.—The term "cubic foot of gas" or "standard cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be sixty (60°) degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the Ideal Gas Laws with correction for deviation from Boyle's Law, which correction must be made unless the pressure at the point of measurement is 200 pounds per square inch gauge, or less; all in accordance with methods and tables generally recognized by and commonly used in the natural gas industry. For all purposes of computing standard cubic feet of gas under this act the barometric pressure may be assumed to be 14.6 pounds per square inch absolute at the place of measurement. [Acts 1951, No. 214, § 2, p. 498.]

53-518. Determination of specific gravity and flowing temperature.—The Oil & Gas Commission of Arkansas is hereby authorized and empowered, in the absence of the availability of satisfactory actual data based upon observed or recorded specific gravity and flowing temperature determinations, to determine the average specific gravity, and average flowing temperature of the gas at the point of measurement, as produced in each oil or gas field or pool in Arkansas, which after being so determined shall be used to calculate the standard cubic foot. If for any reason the Oil & Gas Commission has not so determined such average specific gravity and average flowing temperature of the gas produced in any oil or gas field or pool in Arkansas, the average specific gravity shall be assumed to be six-tenths (6) and the average flowing temperature shall be assumed to be sixty (60°) degrees Fahrenheit. In the event that the Oil & Gas Commission finds the necessity therefor or upon the request of any interested party, the Oil & Gas Commission shall give notice and hold a public hearing before making such determinations. Promptly upon such determinations the Oil & Gas Commission shall make and publish such findings and promulgate such reasonable field rules as may be necessary to effectuate the provisions of this statute §§ 53-516—53-520.

Any person, association of persons, or corporation shall be permitted to use the findings and field rules of the Oil & Gas Commission for all purposes under this statute, but if such findings or field rules are not so used in determining volumes under this statute, the volumes so otherwise determined shall be corrected to the basis of the “standard cubic foot of gas” as defined in Section 2 (§ 53-517) of this statute; provided, however, that nothing herein shall ever prevent the use of actual recorded values and actual test data where available, for all purposes whatsoever under this statute. [Acts 1951, No. 214, § 3, p. 498.]

53-519. Reports of gas production.—Any person required to report volumes of gas production under the laws of this state shall report such volumes in number of thousands of standard cubic feet calculated and determined under the provisions of this statute §§ 53-516—53-520. [Acts 1951, No. 214, § 4, p. 498.]
53-520. Sale or delivery of gas by volume—Measurement—Contract provisions—Penalty for violators. Civil suit. Each and every sale, and each and every purchase, delivery and receipt of gas by volume hereafter made in this state, for which any accounting for the price paid or received for the gas so sold, purchased, delivered or received must be made to an oil and gas lease owner, royalty owner thereunder, or other mineral interest owner, shall be made and such gas shall be measured, calculated, purchased, delivered and accounted for on the basis of "a standard cubic foot of gas" as defined in Section 2 (§ 53-517), and as determined under this statute (§§ 53-516—53-520). Whenever the provisions of this statute operate to change the basis of measurement provided for in existing contracts, then the price for gas, including royalty gas provided for in such contracts shall, if either the purchaser or seller so desires, be adjusted to compensate for the change in the method of measuring the volume of gas delivered thereunder. This provision is intended to protect parties to contracts now in existence, so that after this statute becomes effective the total amount of money paid for a volume of gas purchased, or required to be accounted for, under existing contracts shall remain unaffected by this statute.

Nothing in this Section shall affect or apply to purchases or sales made on any basis other than a volume basis.

Any person, association of persons, or corporation who, as purchaser thereof, shall knowingly fail or refuse to so measure, calculate, or account for any such gas so purchased, shall be subject to a penalty of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00) for each offense recoverable in the name of the State in the Circuit Court of the county in which the State Capitol is located, and each day of such violation shall constitute a separate offense.

Nothing herein shall prevent any aggrieved party from maintaining a civil suit for damages in the county or counties in which the gas is produced. [Acts 1951, No. 214, § 5, p. 498.]

Repealing Clause.

Section 7 of Acts 1951, No. 214 repealed all other parts of law in conflict therewith.

Enactment.

Section 8 of Acts 1951, No. 214, read:

"It has been found and is declared by the General Assembly of the State of Arkansas that the present standard gas measurement law is vague and indefinite in many respects and makes no provision for the enforcement of such law, and that the enactment of this Act will remedy this situation; therefore, an emergency is declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in full force from and after the date of its passage and approval." Approved March 1, 1951.

CHAPTER 6

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PART I. DEPARTMENT OF CONSERVATION

SECTION 1. Department established; appointment of commissioner; term; vacancies; jurisdiction; salary.

A. There is established the state Department of Conservation, hereinafter referred to as the department. The department shall be directed and controlled by a commissioner of conservation, who shall be appointed by the governor, with the consent of the Senate, for a term of four years. In case of vacancy for any cause the governor shall, with consent of the Senate, fill the office by appointment for the unexpired term. Amended Acts 1975, No. 388 §1.

B. Notwithstanding the provisions of any other law to the contrary, the salary of the Commissioner of Conservation shall be fixed by the governor. Acts 1978, No. 618 §1.
C. All natural resources of the state not within the jurisdiction of other state departments or agencies are within the jurisdiction of the department.

D. The disposal of any waste product into the subsurface by means of a disposal well, including regulation of the surface and storage facilities at the injection site, shall be within the jurisdiction of the department. Added by Acts 1976, No. 122, §1.

(Source: Const. of 1921, Art. 6, §1(C); Acts 1948, No. 85, §1, Acts 1965, No. 53, §3.)

SECTION 2. Waste of oil or gas prohibited.

Waste of oil or gas as defined in this chapter is prohibited.

(Source: Acts 1940, No. 157, §1.)

SECTION 3. Definitions.

Unless the context otherwise requires, the words defined in this Section have the following meaning when found in this Chapter:

1. "Waste," in addition to its ordinary meaning, means "physical waste" as that term is generally understood in the oil and gas industry. It includes:

   a. the inefficient, excessive, or improper use or dissipation of reservoir energy; and the location, spacing, drilling, equipping, operating, or producing of an oil or gas well in a manner which results, or tends to result, in reducing the quantity of oil or gas ultimately recoverable from a pool; and

   b. the inefficient storing of oil; the producing of oil or gas from a pool in excess of transportation or marketing facilities or of reasonable market demand; and the locating, spacing, drilling, equipping, operating, or producing of an oil or gas well in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.

   c. The disposal, storage or injection of any waste product in the subsurface by means of a disposal well.

2. "Commissioner" means the Commissioner of Conservation of the State of Louisiana.

3. "Person" means any natural person, corporation, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind.

4. "Oil" means crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the wellhead in liquid form by ordinary production methods.

5. "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph (4) above.

6. "Pool" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool" as used in this Chapter.

7. "Field" means the general area which is underlaid or appears to be underlaid by at least one pool. It includes the underground reservoir or reservoirs con-
taining crude petroleum oil or natural gas or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field" unlike "pool," may relate to two or more pools.

(8) "Owner" means the person who has the right to drill into and to produce from a pool and to appropriate the production either for himself or for others.

(9) "Producer" means the owner of a well capable of producing oil or gas or both.

(10) "Product" means any commodity made from oil or gas. It includes refined crude oil, crude tops, topped crude, processed crude petroleum, residuum from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gasoline, casing gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.

(11) "Illegal oil" means oil which has been produced within the state from any well in excess of the amount allowed by any rule, regulation, or order of the commissioner, as distinguished from oil produced within the state not in excess of the amount so allowed by any rule, regulation, or order, which is "legal oil."

(12) "Illegal gas" means gas which has been produced within the state from any well in excess of the amount allowed by any rule, regulation, or order of the commissioner, as distinguished from gas produced within the state not in excess of the amount so allowed by any rule, regulation, or order, which is "legal gas."

(13) "Illegal product" means any product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal oil or illegal gas or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(14) "Tender" means a permit or certificate of clearance for the transportation of oil, gas, or products, approved and issued or registered under the authority of the commissioner.

(15) "Waste product" means any liquid, sludge, effluent, semi-liquid or other substance resulting from any process, whether manufacturing or otherwise.

(Source: Acts 1940, No. 157, §2.)

SECTION 4. Jurisdiction and powers of commissioner; rules and regulations.

A. The commissioner has jurisdiction and authority over all persons and property necessary to enforce effectively the provisions of this Chapter and all other laws relating to the conservation of oil or gas.

B. The commissioner shall make such inquiries as he thinks proper to determine whether or not waste, over which he has jurisdiction, exists or is imminent. In the exercise of this power the commissioner has the authority: to collect data; to make investigations and inspections; to examine properties, leases, papers, books, and records; to examine, survey, check, test, and gauge oil and gas wells, tanks, refineries, and modes of transportation; to hold hearings; to provide for the keep-
ing of records and the making of reports; and to take any action as reasonably appears to him to be necessary to enforce this Chapter.

C. The commissioner has authority to make after notice and hearing as provided in this Chapter, any reasonable rules, regulations, and orders that are necessary from time to time in the proper administration and enforcement of this Chapter, including rules, regulations, or orders for the following purposes:

1) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water into oil or gas strata; to prevent the pollution of fresh water supplies by oil, gas, or salt water; and to require reasonable bond with security for the performance of the duty to plug each dry or abandoned well.

2) To require the making of reports showing the location of all oil and gas wells, and the filing of logs, electrical surveys, and other drilling records.

3) To prevent wells from being drilled, operated, and produced in a manner to cause injury to neighboring leases or property.

4) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas in paying quantities, and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

5) To require the operation of wells with efficient gas-oil ratios, and fix these ratios.

6) To prevent blow outs, caving and seepage in the sense that conditions indicated by these terms are generally understood in the oil and gas business.

7) To prevent fires.

8) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and all storage and transportation equipment and facilities.

9) To regulate the shooting and chemical treatment of wells.

10) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

11) To limit and prorate the production of oil or gas or both from any pool or field for the prevention of waste.

12) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation of oil, gas, or any product.

13) To regulate the spacing of wells and to establish drilling units, including temporary or tentative spacing rules and drilling units in new fields.

14) To require interested persons to place uniform meters of a type approved by the commissioner wherever the commissioner designates on all pipelines, gathering systems, barge terminals, loading racks, refineries, or other places necessary or proper to prevent waste and the transportation of illegally produced oil or gas. These meters shall be under the supervision and control of the Department of Conservation. It shall be a violation of this Chapter, subject to the penalties provided in R.S. 30:18, for any person to refuse to attach or install a meter when ordered to do so by the commissioner, or in any way to tamper with the

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meter so as to produce a false or inaccurate reading, or to have any device through which the oil or gas can be passed around the meter, unless expressly authorized by written permit of the commissioner.

(15) To require that the product of all wells shall be separated into so many million cubic feet of gaseous hydrocarbons and barrels of liquid hydrocarbons, either or both, and accurately measured wherever separation takes place. Gaseous hydrocarbon measurement shall be corrected to ten inches above atmosphere pressure. Liquid hydrocarbons shall be measured into barrels of forty-two gallons each. Both measurements shall be corrected to sixty degrees fahrenheit.

(16) To regulate by rules, the drilling, casing, cementing, disposal interval, monitoring, plugging and permitting of disposal wells, including all surface and storage facilities incidental thereto, which are used to inject waste products in the subsurface, in such a manner as to prevent the escape of such waste product into a fresh ground water aquifer or into oil or gas strata; and may require reasonable bond with security for the performance of the duty to plug each abandoned well or each well which is of no further use.

(Source: Acts 1940, No. 157, §3.)

SECTION 5. Permission to convert gas into carbon black; re-cycling gas; unit operations.

A. In order to prevent waste of natural gas, the commissioner may grant to bona fide applicants permits for the building and operation of plants and to burn natural gas into carbon black for the period of time fixed by the commissioner in the permit, not to exceed twenty-five years and subject to the provisions of the laws of the state and the rules and regulations of the Department. It shall be a violation of this Chapter for any person to build or operate a new plant, for these purposes without the permit required by this Section.

B. In order to prevent waste and to avoid the drilling of unnecessary wells, the commissioner shall, after notice and upon hearing, and his determination of feasibility, require the re-cycling of gas in any pool or portion of a pool productive of gas from which condensate or distillate may be separated or natural gasoline extracted, and promulgate rules to uniteize separate ownership and to regulate production of the gas and re-introduction of the gas into productive formations after separation of condensate, or distillate, or extraction of natural gasoline, from the gas.

C. Without in any way modifying the authority granted to the commissioner of Subsection B of Section 9 of this Title 30 to establish a drilling unit or units for a pool and in addition to the authority conferred in Subsection B of this Section 5; the Commissioner of Conservation, upon the application of any interested party, also is authorized and empowered to enter an order requiring the unit operation of any pool or a combination of two pools in the same field, productive of oil or gas, or both, in connection with the institution and operation of systems of pressure maintenance by the injection of gas, water or any other extraneous substance, or in connection with any program of secondary recovery; and the commissioner is further authorized and empowered to require the unit operation of a single pool in any situation where the ultimate recovery can be increased and waste and the drilling of unnecessary wells can be prevented by such a unit operation. In connection with such an order of unit operation, the commissioner shall have the right to unitize, pool and consolidate all separately owned tracts and other property ownerships. Any
order for such a unit operation shall be issued only after notice and hearing and shall be based on findings that:

(1) the order is reasonably necessary for the prevention of waste and the drilling of unnecessary wells, and will appreciably increase the ultimate recovery of oil or gas from the affected pool or combination of two pools,

(2) the proposed unit operation is economically feasible,

(3) the order will provide for the allocation to each separate tract within the unit of a proportionate share of the unit production which shall insure the recovery by the owners of that tract of their just and equitable share of the recoverable oil or gas in the unitized pool or combination of two pools, and

(4) at least three-fourths to be in interest as determined under (3) hereof, shall have approved the plan and terms of unit operation, such approval to be evidenced by a written contract or contracts covering the terms and operation of said unitization signed and executed by said three-fourths in interest of said owners and three-fourths in interest of the said royalty owners and filed with the commissioner on or before the day set for said hearing. The order requiring the unit operation shall designate a unit operator and shall also make provision for the proportionate allocation to the owners (lessees or owners of unleased interests) of the costs and expenses of the unit operation, which allocation shall be in the same proportion that the separately owned tracts share in unit production. The cost of capital investment in wells and physical equipment and intangible drilling costs, in the absence of voluntary agreement among the owners to the contrary, shall be shared in like proportion; provided that no such owner who has not consented to the unitization shall be required to contribute to the costs or expenses of the unit operation, or to the cost of capital investment in wells and physical equipment and intangible drilling costs, except out of the proceeds of production accruing to the interest of such owner out of production from said unit operation. However, no well costs credit allowable shall be adjusted on the basis of less than the average well costs within the unitized area. It is provided, however, that the order requiring unit operation shall not vary nor alter any of the terms of the above required written contract or contracts evidencing approval nor impose any terms or operations upon the non-signers of said contract or contracts more onerous than the terms and operations set out in said contract or contracts.

No order of the commissioner entered pursuant hereto shall have the effect of enlarging, displacing, varying, altering or in anywise whatsoever modifying or changing contracts in existence of the effective date of this Act concerning the unitization of any pool (reservoir) or pools (reservoirs) or field (as defined in said contract) for the production of oil or gas, or both.

(Source: Acts 1940, No. 157, §4; Acts 1969, No. 441, §1.)

SECTION 6. Hearings; notice; rules of procedure; emergencies; service of process; recordation and inspection; requests for hearings.

A. The commissioner shall prescribe the rules of order or procedure in hearings or other proceedings before him under this Chapter.

B. No rules, regulation, order, or change, renewal, or extension thereof, shall, in the absence of an emergency, be made by the commissioner under the provi-
sions of this Chapter except after a public hearing upon at least ten days' notice given in the manner and form prescribed by the commissioner. This hearing shall be held at a time and place and in the manner prescribed by the commissioner. The commissioner, in his discretion, may designate a member of his staff, either an attorney, engineer or geologist, to conduct public hearings on his behalf. Any person having an interest in the subject matter of the hearing shall be entitled to be heard. Provided, however, that whenever any application shall be made to the commissioner of conservation for creation, revision or modification of any unit or units for production of oil or gas, or for adoption of any plan for spacing of wells or for cycling of gas, pressure maintenance or restoration, or other plan of secondary recovery, the applicant shall be required to file with the application two copies of a map of such unit or units or well spacing pattern or two explanations of such plan of cycling, pressure maintenance or restoration, or other secondary recovery program and at least thirty (30) days notice shall be given of the hearings to be held thereon, in the manner prescribed by the commissioner of conservation and a copy of such plat or explanation of program shall remain on file in the office of the commissioner in Baton Rouge and in the office of the district manager of the conservation district in which the property is located, and be open for public inspection, at least thirty (30) days prior to such hearing.

C. If the commissioner finds an existing emergency which in his judgment requires the making, changing, renewal, or extension of a rule, regulation, or order without first having a hearing, the emergency rule, regulation, or order shall have the same validity as if a hearing had been held after due notice. The emergency rule, regulation, or order shall remain in force no longer than fifteen days from its effective date. In any event, it shall expire when the rule, regulation, or order made after notice and hearing with respect to the same subject matter becomes effective.

D. Should the commissioner elect to give notice by personal service, it may be made by any officer authorized to serve process or any agent of the commissioner in the same manner as is provided by law for the service of citation in civil actions in the district courts. Proof of the service by an agent shall be by the affidavit of the person making it.

E. All rules, regulations, and orders made by the commissioner shall be in writing and shall be entered in full by him in a book kept for that purpose. This book shall be a public record and shall be open for inspection at all times during reasonable office hours. A copy of a rule, regulation, or order, certified by the commissioner, shall be received in evidence in all courts of this state with the same effect as the original.

F. Any interested person has the right to have the commissioner call a hearing for the purpose of taking action in respect to a matter within the jurisdiction of the commissioner by making a request therefor in writing. Upon receiving the request the commissioner shall promptly call a hearing. After the hearing, and with all convenient speed and in any event within thirty days after the conclusion of the hearing the commissioner shall take whatever action he deems appropriate with regard to the subject matter. In the event of failure or refusal of the commissioner to issue an order within the period of thirty days, he may be compelled to do so by mandamus at the suit of any interested person.

(Source: Acts 1940, No. 157, §5. R.S. 30:6 was amended by Acts 1954, No. 174, §1, and Acts 1954, No. 499, §1. These two amendments have been integrated and consolidated herein on the authority of R.S. 24:253.)

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Acts 1954, No. 489, §1, amended R.S. 30:6 in its entirety but did not change original text of Subsection B. It added, however, the proviso contained in Subsection B as shown in the text above, Act 1954, No. 174, §1, amended only Subsection B of this Section to permit the appointment of a member of the commissioner’s staff to conduct the public hearings authorized thereunder.

SECTION 7. Orders fixing allowable productions; hearing to determine initial schedules; old fields, hearing unnecessary, summary hearing.

A. An order fixing allowable production of oil or gas or making changes therein for any month or other period shall be issued by the commissioner on or before the twenty-third day of the month preceding the month for which the order is to be effective and it shall be promulgated by immediate publication in the official journal of the state.

B. (1) In the case of old fields or pools for which schedules of allowables had been previously issued, it shall not be necessary for the commissioner to have a hearing prior to the issuance of any subsequent order fixing or changing the schedule of allowables unless there is a written request for a hearing by an interested person. This provision permitting the issuance of a schedule of allowables for old fields without a hearing is an exception to the general rule requiring notice and hearing prior to the issuance of an order by the commissioner.

(2) In the event a schedule of allowables is promulgated without previous notice and hearing, an aggrieved producer of oil or gas may file with the commissioner at his office within seventy-two hours from the publication of the order, a sworn written statement, giving in detail the grounds of his complaint. Thereupon, the commissioner shall hold a hearing within forty-eight hours. At this hearing, oral or documentary evidence may be received by the commissioner in favor of and against the complaint. After the hearing, the commissioner shall summarily render a decision. If his decision is not made on or before the effective date of the order complained of, that order shall be suspended until a decision is rendered. During this period, the former order shall remain in force. This provision permitting a summary hearing shall be restricted to cases involving a complaint made against a schedule of allowables under the circumstances set forth in this Subsection B(2).

(Source: Acts 1940, No. 157, §6.)

SECTION 8. Subpoenas, and production of records; service; excuses for disobedience; enforcement of subpoenas.

A. The commissioner may subpoena witnesses and require their attendance and the giving of testimony before him. He may require the production of any books, papers, or records material to the questions lawfully before him.

(1) Subpoenas shall be served by any agent of the Department of Conservation, by the sheriff, or by any other officer authorized by law to serve process in this state.

(2) No person shall be excused from attending and testifying or producing books, papers, or records, or from obeying the subpoena of the commissioner or of a court of record on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture.
(3) Nothing contained in this subsection shall be construed as requiring any person to produce books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before the commissioner or court for determination.

(4) No natural person shall be subject to criminal prosecution or to any penalty or forfeiture on account of anything concerning which he may be required to testify or produce evidence before the commissioner or a court.

(5) No person testifying shall be exempt from prosecution and punishment for perjury.

B. In the case of failure or refusal of a person to comply with a subpoena issued by the commissioner, or in the case of the refusal of a witness to testify or answer as to a matter regarding which he may be lawfully interrogated, any district court on the application of the commissioner may, in term time or vacation, issue an attachment for the person to compel him to comply with the subpoena and to attend before the commissioner with the desired documents and to give his testimony upon whatever matters are lawfully required.

The court may punish for contempt those disobeying its orders as in the case of disobedience of a subpoena issued by the court or refusal to testify therein.

(Source: Acts 1940, No. 157, §7.)

SECTION 9. Production from pool; drilling units; equitable share; rules and regulations.

A. Whether or not the total production from a pool be limited or prorated, no rule, regulation, or order of the commissioner shall in terms or effect:

(1) Make it necessary for the producer from, or the owner of, a tract of land in the pool, in order that he may obtain the tract’s just and equitable share of the production of the pool, as that share is set forth in this section, to drill and operate any well or wells on the tract in addition to the well or wells that can without waste produce this share, or

(2) Occasion net drainage from a tract unless there be drilled and operated upon the tract a well or wells in addition to the well or wells thereon that can without waste produce the tract’s just and equitable share of the production of the pool.

B. For the prevention of waste and to avoid the drilling of unnecessary wells, the commissioner shall establish a drilling unit or units for each pool, except for those pools which, prior to July 31, 1940, had been developed to an extent and where conditions exist making it impracticable or unreasonable to use a drilling unit at the present stage of development. A drilling unit, as contemplated herein, means the maximum area which may be efficiently and economically drained by one well. This unit shall constitute a developed area as long as a well is located thereon which is capable of producing oil or gas in paying quantities.

C. Each well permitted to be drilled upon a drilling unit hereafter established shall be drilled at the location designated by the Commissioner of Conservation, after public hearing, in the order creating the unit. The Commissioner of Conservation shall consider all available geological and engineering evidence and shall provide for the unit well to be located at the optimum position in the drilling unit for the most efficient and economic drainage of such unit with such exceptions as may be reasonably necessary where topographical conditions exist that would
make such a location of the unit well unduly burdensome or where the designated unit well was drilled or commenced prior to the creation of the drilling unit; provided, however, the Commissioner of Conservation shall fix the well location for each drilling unit so that the producer thereof shall be allowed to produce no more than his just and equitable share of the oil and gas in the pool, as this share is set forth in this Section.

D. Subject to the reasonable necessities for the prevention of waste, and to reasonable adjustment because of structural position, a producer’s just and equitable share of the oil and gas in the pool, also referred to as a tract’s just and equitable share, is that part of the authorized production of the pool, whether it be the total which could be produced without any restriction on the amount of production, or whether it be an amount less than that which the pool could produce if no restriction on amount were imposed, which is substantially in the proportion that the quantity of recoverable oil and gas in the developed area of his tract or tracts in the pool bears to the recoverable oil and gas in the total developed area of the pool, insofar as these amounts can be practically ascertained. To that end, the rules, regulations, and orders of the commissioner shall be such as will prevent or minimize reasonably avoidable net drainage from each developed area, that is, drainage not equalized by counter drainage, and will give to each producer the opportunity to use his just and equitable share of the reservoir energy. In determining each producer’s just and equitable share of the production authorized for the pool, the commissioner is authorized to give due consideration to the productivity of the well or wells located thereon, as determined by flow tests, bottomhole pressure tests, or any other practical method of testing wells and producing structures, and to consider other factors and geological and engineering tests and data as may be determined by the commissioner to be pertinent or relevant to ascertaining each producer’s just and equitable share of the production and reservoir energy of the field or pool.

(Source: Acts 1940, No. 157, §8; Acts 1960, No. 442, §1.)

SECTION 9.1. Termination of units; conditions; procedure; issuance of orders.

A. Any unit or units established pursuant to the authority contained in this Chapter, shall unless sooner terminated, extended or otherwise modified by order of the commissioner, remain in full force and effect so long as:

1. a well is producing from the pool for which the unit or units were established;

2. a well is completed in the pool for which the unit or units were established and, although not producing, has been proved to be capable of producing;

3. drilling, reworking, recompletion, plugging back or deepening operations are being conducted on a well to secure or restore production from the pool for which the unit or units were established; or

B. If a period of one year and ninety days elapses without the occurrence of any of the conditions specified in Paragraphs (1), (2), or (3), of Subsection A of this Section, upon application being made therefor, the commissioner may, by order issued after ten days legal notice, and without the necessity of a public hearing in the absence of objection, terminate all units within the pool.
C. The commissioner shall prescribe, issue, amend, and rescind such orders, rules and regulations as he may find necessary or appropriate to carry out the provisions of this Section. Among other things, such orders, rules, and regulations shall prescribe the form and substance of the application for unit termination, and all statements, declarations, and supporting evidence to be filed therewith.

D. The provisions of this Section are intended to and shall affect presently existing units; however, in those instances where more than one year and ninety days have elapsed prior to the effective date of this Section without any of the conditions specified in Paragraphs (1), (2), or (3) of Subsection A of this Section having occurred, such unit or units shall not be subject to termination hereunder until an additional period of ninety days has elapsed after the effective date of this Section without any of the said conditions having occurred.

E. Any order issued pursuant to this Section shall be filed for record as provided in Section 11.1 of this Title.

F. Any future wells completed within the boundaries of any unit or units terminated pursuant to this Section shall, upon a new unit application being made to the commissioner, be entitled to a unit hearing as otherwise provided for by law as fully as though the original unit or units had never been created, and any such new unit or units shall not be limited in any way by the prior hearing or pre-existing unit or units.

G. No provision of this Section shall be construed so as to in any way limit the authority otherwise granted to the commissioner to terminate, extend, or otherwise modify any unit or units. Added by Acts 1975, No. 671, §1.

SECTION 10. Agreements for drilling units; pooling interests; terms and conditions; expenses.

A. When two or more separately owned tracts of land are embraced within a drilling unit which has been established by the commissioner as provided in R.S. 30:9B, the owners may validly agree to pool their interests and to develop their lands as a drilling unit.

(1) Where the owners have not agreed to pool their interests, the commissioner shall require them to do so and to develop their lands as a drilling unit, if he finds it to be necessary to prevent waste or to avoid drilling unnecessary wells.

(a) All orders requiring pooling shall be made after notice and hearing. They shall be upon terms and conditions that are just and reasonable and that will afford the owner of each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense. They shall prevent or minimize reasonable avoidable drainage from each developed tract which is not equalized by counter drainage.

(b) The portion of the production allocated to the owner of each tract included in a drilling unit formed by a pooling order shall, when produced be considered as if it has been produced from his tract by a well drilled thereon.

(c) In the event pooling is required, the cost of development and operation of the pooled unit chargeable by the operator to the other interested owners shall be limited to the actual reasonable expenditures required for that purpose, including a charge for supervision. In the event of a dispute relative to these costs, the com-
missioner shall determine the proper costs, after notice to all interested persons and a hearing.

B. Should the owners of separate tracts embraced within a drilling unit fail to agree upon the pooling of the tracts and the drilling of a well on the unit, and should it be established by final and unappealable judgment of court that the commissioner is without authority to require pooling as provided for in Subsection A, then, subject to all other applicable provisions of this Chapter, the owner of each tract embraced within the drilling unit may drill thereon. The allowable production therefrom shall be such proportion of the allowable for the full unit as the area of the separately owned tract bears to the full drilling unit.

(Source: Acts 1940, No. 157, §9.)

SECTION 11. Allocation of allowable production.

A. Whenever the commissioner limits the total amount of oil or gas which may be produced, he shall allocate the allowable production among the fields. This allocation shall be made on a reasonable basis, giving, to each field with small wells of settled production, an amount which will prevent a general premature abandonment of the wells in the field.

B. The commissioner may limit the production of a pool to an amount less than that which the pool could produce if no restriction were imposed. This limitation may be imposed either as an incident to or without a limitation of the total amount of oil or gas which may be produced in this state. The commissioner shall prorate the allowable production among the producers in the pool on a reasonable basis so as to prevent or minimize avoidable drainage from each developed area which is not equalized by counter drainage, and so that each producer will have the opportunity to produce or receive his just and equitable share, subject to the reasonable necessities for the prevention of waste.

C. After the effective date of a rule, regulation, or order of the commissioner fixing the allowable production of oil or gas, or both, for a pool, no person shall produce from a well, lease, or property more than the allowable production which is applicable, nor shall the amount be produced in a different manner than that authorized.

(Source: Acts 1940, No. 157, §10.)

SECTION 11.1. Filing and recording of orders creating drilling or production units.

Within thirty days after the issuance thereof the commissioner of conservation of the state of Louisiana shall cause to be filed and recorded in the conveyance records of the parish or parishes in which the immovable property affected thereby is situated all orders and amendments thereof creating drilling or production units.

(Source: Acts 1952, No. 516, §1.)

SECTION 12. Court review and injunction; venue; procedure; burden of proof.

An interested person adversely affected by any law of this state with respect to conservation of oil or gas, or both, or by a provision of this Chapter, or by a rule, regulation, or order made by the commissioner hereunder, or by an act done or
threatened thereunder, and who has exhausted his administrative remedy, may obtain court review and seek relief by a suit for an injunction against the commissioner as defendant. Suit shall be instituted in the district court of the parish in which the principal office of the commissioner is located and shall be tried summarily. The attorney representing the commissioner may have a case set for trial at any time after ten days' notice to the plaintiff or his attorney of record. The burden of proof shall be upon the plaintiff and all pertinent evidence with respect to the validity and reasonableness of the order of the commissioner complained of shall be admissible. The law, the provision of this Chapter, or the rule, regulation, or order complained of, shall be taken as prima facie valid. This presumption shall not be overcome in connection with any application for injunctive relief, including a temporary restraining order, by verified petition or affidavit of or in behalf of the applicant. The right of review accorded by this Section shall be inclusive of all other remedies, but the right of appeal shall lie as hereinafter set forth in this Chapter.

(Source: Acts 1940, No. 157, §11.)

SECTION 13. Temporary restraining order or injunction; notice and hearing; bond.

A. No temporary restraining order or injunction shall be granted against the commissioner of conservation, the attorney general, or any agent, employee, or representative of the commissioner restraining the commissioner, or any of his agents, employees, or representatives, or the attorney general, from enforcing a statute of this state relating to conservation of oil and gas, or any of the provisions of this Chapter, or any rule, regulation, or order made hereunder, except after due notice to the commissioner, and to all other defendants, and after a hearing. It shall be clearly shown to the court that the act done or threatened is without sanction of law, or that the provisions of this Chapter, or the rule, regulation, or order complained of, is invalid, and that, if enforced against the complaining party, will cause an irreparable injury. The nature and extent of the probable invalidity of the law, or provision of this Chapter, or of any rule, regulation, or order hereunder involved in the suit, shall be recited in the order or decree granting the temporary relief, as well as a clear statement of the probable damage relied upon by the court as justifying temporary injunctive relief.

B. No temporary injunction against the commissioner, or the department of conservation, or its agents, employees, or representatives, or the attorney general, shall become effective until the plaintiff shall execute a bond in an amount and upon such conditions as the court directs.

(Source: Acts 1940, No. 157, §12.)

SECTION 14. Suit by commissioner for violation of law; venue; relief obtainable.

Whenever it appears that a person is violating or is threatening to violate a law of this state with respect to the conservation of oil or gas, or both, or a provision of this Chapter, or a rule, regulation, or order made thereunder, the commissioner shall bring suit to restrain that person from continuing the violation or from carrying out the threat.
Venue shall be in the district court in the parish of the residence of any one of the defendants or in the parish where the violation is alleged to have occurred or is threatened.

In this suit, the commissioner may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, as the facts warrant, including, when appropriate, injunctions restraining a person from moving or disposing of illegal oil, illegal gas, or an illegal product. Any or all of these illegal commodities may, in the court’s discretion, be ordered impounded or placed under the control of an agent appointed by the court.

(Source: Acts 1940, No. 157, §13.)

**SECTION 15. Appeal.**

In proceedings brought under authority of, or for the purpose of contesting the validity of, a provision of this Chapter, or of an oil or gas conservation law of this state, or of a rule, regulation, or order issued thereunder, appeals may be taken in accordance with the general laws relating to appeals. In appeals from judgments or decrees in suits to contest the validity of a provision of this Chapter, or a rule or regulation of the commissioner hereunder, the appeals when docketed in the proper appellate court shall be placed on the preference docket of the court and may be advanced as the court directs.

(Source: Acts 1940, No. 157, §14.)

**SECTION 16. Suit by party in interest upon commissioner’s failure to sue.**

If the commissioner fails to bring suit within ten days to restrain a violation as provided in R.S. 30:14, any person in interest adversely affected by the violation who has notified the commissioner in writing of the violation or threat thereof and has requested the commissioner to sue, may bring suit to prevent any or further violations, in the district court of any parish in which the commissioner could have brought suit. If the court holds that injunctive relief should be granted, the commissioner shall be made a party and shall be substituted for the person who brought the suit and the injunction shall be issued as if the commissioner had at all times been the complaining party.

(Source: Acts 1940, No. 157, §15.)

**SECTION 17. False reports or entries; penalty.**

No person shall for the purpose of evading this Chapter, or any rule, regulation or order made thereunder:

(1) Make or cause to be made any false entry or statement or fact in any report required to be made by this Chapter or by any rule, regulation or order made hereunder, or

(2) Make or cause to be made any false entry in an account, record, or memorandum kept by any person in connection with the provisions of this Chapter or of any rule, regulation, or order made hereunder, or

(3) Omit or cause to be omitted full, true, and correct entries in these accounts, records, or memoranda, of all facts and transactions pertaining to the interest or activities in the petroleum industry of a person, as may be required by the com-
missioner under authority given in this Chapter or by any rule, regulation or order made thereunder, or

(4) Remove out of the jurisdiction of the state, or destroy or mutilate, alter, or by any other means falsify any book, record, or other paper, pertaining to the transactions regulated by this Chapter or by any rule, regulation or order made thereunder.

Whoever violates this section shall be fined not more than five thousand dollars, or imprisoned not more than six months, or both.

(Source: Acts 1940, No. 157, §16.)

SECTION 18. Penalties for violation of chapter; venue.

A. Whoever knowingly and willfully violates a provision of this Chapter, or a rule, regulation or order of the commissioner made hereunder, shall be subject to a civil penalty of not more than one thousand dollars a day for each day of violation and for each act of violation, if a penalty for the violation is not otherwise provided in this Chapter.

(1) The place of suit to recover this penalty shall be selected by the commissioner in the district court of the parish of the residence of any one of the defendants, or in the district court of the parish where the violation took place.

(2) Suit shall be at the direction of the commissioner and shall be instituted and conducted in his name by the attorney general or by the district attorney of the district under the direction of the Attorney General.

(3) The payment of any penalty shall not have the effect of changing illegal oil into legal oil, illegal gas into legal gas, or an illegal product into a legal product, nor shall payment have the effect of authorizing the sale, or acquisition, or the transportation, refining, processing, or handling in any other way, of the illegal oil, illegal gas, or illegal product, but, to the contrary, the penalty shall be imposed for each prohibited transaction relating to the illegal oil, illegal gas, or illegal product.

B. Whoever knowingly and willfully aids or abets a person in the violation of a law of this state relating to the conservation of oil or gas, or the violation of a provision of this Chapter, or any rule, regulation, or order made thereunder, shall be subject to the same penalties provided herein for the principal violator.

(Source: Acts 1940, No. 157, §17.)

SECTION 19. Sale, etc. of illegal products prohibited.

A. The sale, or acquisition, of the transportation, refining, processing, or handling in any other way, of illegal oil, illegal gas, or an illegal product is unlawful.

B. Unless and until the commissioner provides a method, by which a person may have an opportunity to determine whether a contemplated transaction or sale, or acquisition, or transportation, refining, processing, or handling in any other way, involves illegal oil, illegal gas, or illegal product, no penalty shall be imposed except under certain circumstances hereinafter stated. Penalties shall be imposed for the commission of each transaction prohibited in this Section when the transactor knows that illegal oil, illegal gas, or illegal product is involved or when
he could have known by the exercise of reasonable diligence or from facts within his knowledge.

However, regardless of lack of actual notice or knowledge, penalties as provided in this Chapter shall apply to any sale, or acquisition, and to the transportation, refining, processing, or handling in any other way, of illegal oil, illegal gas, or illegal product, where administrative provision is made for identifying the character of the commodity as to its legality. It likewise shall be a violation for which penalties shall be imposed for any person to sell, or acquire or to transport, refine, process, or handle in any other way, any oil, gas, or product without complying with all applicable rules, regulations, or orders of the commissioner relating thereto.

(Source: Acts 1940, No. 157, § 18.)

SECTION 20. Illegal gas, etc. contraband; seizure and sale; procedure; disposition of proceeds.

A. In addition to other remedies and penalties, all illegal oil, illegal gas, or illegal products, shall, except under the circumstances stated herein, be contraband and shall be seized and sold, and the proceeds applied as herein provided. The sale shall not take place unless the court shall find, in the proceeding provided for in this Subsection, that the commodity is contraband. Whenever the commissioner believes that illegal oil, illegal gas, or illegal product is subject to seizure and sale, he shall, through the attorney general, bring a civil action in rem in the district court of the parish where the commodity is found. Or the action may be maintained in connection with any suit or reconviction demand for injunction or for penalty relating to any prohibited transaction involving the illegal oil, illegal gas, or illegal product. Any person in interest who shows himself to be adversely affected by the seizure and sale shall have the right to intervene in the suit to protect his rights.

B. The action referred to in Subsection A shall be strictly in rem and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas, or illegal product described in the petition, as defendant, and no bond shall be required of the plaintiff in connection therewith. Upon the filing of the petition, the clerk of the court shall issue a citation with a copy of the petition attached directed to the sheriff of the parish, or to any other officer or person the court authorizes to serve process. He shall cite all persons, without undertaking to name them, who may be interested to appear and answer within fifteen days after the issuance and service of the petition and citation. Service shall be made by posting a copy of the petition and citation upon the courthouse door of the parish where the commodity involved is located and by posting another copy near the place where the commodity is alleged to be located. The posting of the petition and citation shall constitute constructive possession of the commodity by the state. Proof of service of citation, and the manner thereof, shall be made as is required by law.

C. Where it appears by a verified pleading on the part of the plaintiff, by affidavit, or by oral testimony, that grounds for the seizure and sale exist, the court shall issue an order of seizure. This order shall specifically describe the alleged contraband so that it may be identified with reasonable certainty. The order shall direct the sheriff to whom it is addressed to take into his custody, actual or constructive, the commodity described and to hold it subject to the orders of the court.
The sheriff shall be responsible upon his official bond for proper execution of the order.

D. The court may direct the sheriff to deliver the custody of any contraband seized by him to a sequestrator who shall act as the agent of the court and shall give bond with surety as the court directs conditioned and he will faithfully conserve the contraband which comes into his custody and possession in accordance with the orders of the court. The court may appoint an agent of the commissioner as sequestrator.

E. Any person testing the validity of a seizure or sequestration, may obtain the release of oil, gas or other products upon furnishing bond issued by a corporate surety company qualified to do business in the state in an amount exceeding by one-half the current market value of the oil, gas, or other product under seizure or sequestration. The bond shall be in favor of Sheriff and conditioned upon and shall remain in full force and effect until final determination of the validity of the seizure or sequestration.

F. Sales of contraband seized under the authority of this Chapter, and notices of these sales, shall be in accordance with the laws of this state relating to the sale and disposition of property seized under a writ of fieri facias.

G. The court may order that the commodity be sold in specified lots or portions, and at stated intervals, instead of being sold at one time. Title to the amount sold shall pass as of the date of that act which is found by the court to make the commodity contraband. The amount sold shall be treated as legal oil, legal gas, or legal product in the hands of the purchaser, but the purchaser and the commodity shall be subject to all applicable laws, rules, regulations, and orders with respect to the transportation, refining, processing, or handling in any other way, of the commodity purchased.

H. The proceeds of the sale of contraband shall be applied first to the payment of the cost of the action and the expenses incident to the sale after these expenses have been approved and allowed by the court. All funds then remaining shall be paid to the department of conservation for the purpose of carrying out the provisions of this Chapter.

(Source: Acts 1940, No. 157, §19.)

SECTION 21. Fees and charges of the commissioner.

The Commissioner of Conservation shall collect the following fees in connection with his responsibilities and duties as set forth in this Part.

(1) A fee of $100.00 for each separate application for public hearing; an application for hearing which contains a request for rules and regulations for more than one sand shall be considered a separate application for each sand.

(2) A fee of $25.00 for the handling and processing of each application for dual or multiple completion of wells.

(3) A fee of $25.00 for each application to commingle production from various leases and to collect and allocate the production to the appropriate owners.

(4) A fee of $25.00 for the handling and processing of each application for the approval of automatic custody transfer of oil from a lease.

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All revenues collected under this Section are dedicated without further appropriation to the Department of Conservation for the express purpose of defraying the cost and administration expenses incurred by the Commissioner of Conservation, his staff and the Louisiana Geological Survey in conducting the requisite hearings and processing necessitated by the aforesaid applications.

(Source: Acts 1959, No. 66, §3.)

SECTION 22. Underground storage of natural gas.

A. The underground storage of natural gas which promotes conservation of natural gas, or which permits the building of large quantities of natural gas in reserve for orderly withdrawal in periods of peak demand, making natural gas more readily available to the consumer, or which provides more uniform withdrawal from various gas or oil fields, each is in the public interest and for a public purpose.

B. Prior to the use of any underground reservoir for the storage of natural gas and prior to the exercise of eminent domain by any person, firm or corporation having such right under laws of the State of Louisiana, and as a condition precedent to such use or to the exercise of such rights of eminent domain, the commissioner, after public hearing pursuant to the provisions of R.S. 30:6, shall have found:

1. That the underground reservoir sought to be used for the injection, storage and withdrawal of natural gas is suitable and feasible for such use, provided no reservoir, any part of which is producing or is capable of producing oil in paying quantities, shall be subject to such use, unless all owners in such underground reservoir shall have agreed thereto, and no reservoir shall be subject to such use (i) unless the volumes of original reservoir gas and condensate content therein which are capable of being produced in paying quantities have all been produced; or (ii) unless such reservoir has a greater value or utility as an underground reservoir for gas storage than for the production of the remaining volumes of original reservoir natural gas and condensate content, and at least three-fourths of the owners, in interest, exclusive of any "lessor" defined in Title 41, Section 1261, of the Louisiana Revised Statutes of 1950, shall have consented to such use in writing; and

2. That the use of the underground reservoir for the storage of natural gas will not contaminate other formations containing fresh water, oil, gas or other commercial mineral deposits; and

3. That the proposed storage shall not endanger lives or property.

C. The commissioner shall determine with respect to any such underground reservoir proposed to be used as a storage reservoir, whether or not such reservoir is fully depleted of the original commercially recoverable natural gas and condensate contents therein. If the commissioner finds that such reservoir has not been fully depleted, the commissioner shall determine the amount of the remaining commercially recoverable natural gas and condensate content of such reservoir.

D. The commissioner shall be empowered to issue any necessary order providing that all natural gas which has previously been reduced to possession, and which is subsequently injected into an underground storage reservoir shall at all times be deemed the property of the injector, his successors and assigns; and in no event shall such gas be subject to the right of the owner of the surface of the lands or of any mineral interest therein under which such underground storage reservoir shall lie or be adjacent to or of any person other than the injector, his successors.
and assigns, to produce, take, reduce to possession, waste or otherwise interfere with or exercise any control thereover; provided that the injector, his successors and assigns, shall have no right to gas in any stratum or portion thereof not determined by the commissioner to constitute an approved underground storage reservoir. The commissioner shall issue such orders, rules and regulations as may be necessary for the purpose of protecting any such underground storage reservoir strata or formations against pollution or against the escape of natural gas therefrom, including such necessary rules and regulations as may pertain to the drilling into or through such underground storage reservoir.

(Source: Acts 1962, No. 190, §1.)

SECTION 23. Underground storage of liquid and/or gaseous hydrocarbons.

A. The underground storage of liquid and/or gaseous hydrocarbons will permit the accumulation of large quantities of such liquid and/or gaseous hydrocarbons for orderly withdrawal in times of greater demand, it being deemed in the public interest to have a supply of such hydrocarbons readily available for consumption.

B. Except as to liquid and/or gas storage projects begun before the effective date hereof, and prior to authorizing the use of any salt dome cavity for the storage of liquid and/or gaseous hydrocarbons, the commissioner, after public hearing pursuant to the provisions of R.S. 30:6, shall have found:

(1) That the area of the salt dome sought to be used for the injection, storage and withdrawal of liquid and/or gaseous hydrocarbons is suitable and feasible for such use.

(2) That the use of the salt dome cavity for the storage of liquid and/or gaseous hydrocarbons will not contaminate other formations containing fresh water, oil, gas or other commercial mineral deposits, except salt; and

(3) That the proposed storage, including all surface pits and surface storage facilities incidental thereto which are used in connection with the salt dome cavity storage operation, will not endanger lives or property and is environmentally compatible with existing uses of the salt dome area.

(4) That temporary loss of jobs caused by the storage of liquid and/or gaseous hydrocarbons will be corrected by compensation, finding of new employment, or other provisions made for displaced labor. Added by Acts 1977, No. 223, §4.

C. After having made the findings required in Subsection B of this Section, the commissioner shall transmit a copy of the application, together with his findings to the natural resources committees of the Senate and House of Representatives. These committees, meeting jointly, shall consider the facts surrounding the application and the findings of the commissioner and may hold public hearings thereon. Based upon its deliberations the committees, acting jointly, may submit a report and recommendations to the commissioner within fifteen days after receipt of the application. After consideration of any recommendations so made, the commissioner may issue all necessary orders providing that liquid and/or gaseous hydrocarbons, previously reduced to possession, and which are subsequently injected and stored in a salt dome cavity, shall at all times be deemed the property of the injector, his successors or assigns, subject to the provisions of any contract between the owner or owners of the solid mineral or land overlying the area affected as determined by the commissioner of conservation; and providing further that in no
event shall the owner of the surface of the lands or water bottoms or of any mineral interest under or adjacent to which such salt dome cavity may lie, or any other person, be entitled to any right or claim in or to such liquid and/or gaseous hydrocarbons stored therein, including the right to produce, take, reduce to possession, waste or otherwise interfere with or exercise any control thereover. The commissioner shall issue necessary orders, rules and regulations for the protection from pollution of any salt dome cavity used for storage of liquid and/or gaseous hydrocarbons, or any adjacent strata or formation; and such rules and regulations as may be necessary pertaining to surface storage facilities for the protection of the environment, drilling into any salt dome for the creation of cavities and equipping of same for the injection, storage and withdrawal of liquid and/or gaseous hydrocarbons. Subject to the exception provided in Subsection B of this Section the commissioner shall not allow the use of any salt dome in the state of Louisiana for the purposes mentioned herein until such time as he has prepared and promulgated the regulations required herein according to the Louisiana Administrative Procedure Act (R.S. 49:951 et seq.). In addition, the commissioner shall issue necessary orders, rules and regulations for the protection of the rights of owners of parts of the salt dome which are adjacent to any part thereof sought to be used for liquid and/or gaseous hydrocarbon storage. Added by 1976, No. 641, §1.

PART II. CLOSING OF WASTEFUL WELLS

SECTION 31. Permitting gas well to go wild or burn prohibited; capping or plugging; notice.

No person shall negligently permit a natural gas well to become uncontrollable, or to wastefully burn. The owner, or person in possession of such a well shall prevent waste by escape or burning by securely closing the well by cap or plug, or in any other fashion after five days written notice to do so. This notice may be given by any person with an interest in stopping the waste or, by a constable or justice of the peace of the parish wherein the well is located.

(Source: Acts 1966, No. 71, §1; Acts 1910, No. 283, §1.)

SECTION 32. Failure of owner, etc. to comply with notice; closing by department of public works; expenses.

A. When an owner, or person in possession of an uncontrollable or wastefully burning well receives the notice provided in R.S. 30:31, he shall within five days thereafter commence in good faith to close the well so as to prevent the waste of natural gas. If he fails to do so, the governor, on the written complaint of any person having an interest, shall order the State Department of Public Works to take charge of the work and close the well.

B. To secure to the state the expense incurred by the department of public works, the well and sufficient ground adjacent thereto belonging to the owner or proprietor with all rents and revenues therefrom shall be retained by the state. When the owner pays in full this expense to the state less any rents or revenues received by the state from its possession of the well, the property shall be returned to him.

C. In the event the rents and revenues are insufficient to reimburse the state for the expense of closing the well, this expense shall operate as a privilege on all

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property of the owner of the well. The state shall proceed to enforce this privilege by suit as in other civil actions and judgment shall be executed in the manner provided by law. If the property seized and sold brings an excess over the expense of closing the well, this excess shall be paid to the owner.
(Source: Acts 1906, No. 71, §2; Acts 1910, No. 286, §2.)

SECTION 33. Setting fire to well or permitting well to catch fire, prohibited; penalty.

No person shall willfully and intentionally set fire to a natural gas well, or negligently permit a natural gas well owned by him, or under his management, or in his possession to catch fire, or become uncontrollable, nor shall he negligently permit gas to wastefully escape or burn.

Whoever violates this Section shall be fined not less than five hundred dollars or imprisoned not less than three months or both.
(Source: Acts 1906, No. 71, §3.)

SECTION 34. Abandoning gas well without closing prohibited; penalty.

No person shall abandon a well in or adjacent to a natural gas field or an apparent natural gas field, without first placing a properly made plug both above and below the gas-producing sand, or otherwise sufficiently securing the well against the admission of water into the gas-producing sand.

Whoever violates this Section shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned not less than thirty days nor more than four months, or both.
(Source: Acts 1906, No. 71, §5.)

PART III. COMMON PURCHASER LAW

SECTION 41. Production of gas in excess of market demands; proportionate production.

In order to conserve the natural gas in the state, whenever the full production from any common source of supply of natural gas is in excess of the market demand, then any person having the right to produce gas from the common source of supply, may take therefrom only such proportion of the natural gas that may be marketed without waste, as the natural flow of the well or wells owned or controlled by the person bears to the total natural flow of the common source of supply having due regard to the acreage drained by each well, so as to prevent the person from securing an unfair proportion of the gas therefrom. The commissioner of conservation of Louisiana may by proper order, permit the taking of a greater amount whenever he deems it reasonable or equitable.
(Source: Acts 1918, No. 270, §1.)

SECTION 42. Right to purchase gas.

Every person, engaged in the business of purchasing and selling natural gas in this state, shall be a common purchaser thereof, and shall purchase all of the
natural gas which may be offered for sale which may be brought in pipes and connecting lines by the owner or proposed seller to its trunk lines, at the seller’s expense, or to its gathering lines, without discrimination in favor of one producer as against another, or in favor of any one source of supply as against another save as authorized by the commissioner of conservation after due notice and hearing. If a person is unable to purchase all the gas offered, then he shall purchase natural gas from each producer ratably, and each common purchaser of gas shall have the same right to purchase the production of a gas well that is not being utilized under the conditions of this Section. In the event the owner of the well refuses to sell, the common purchaser shall have the same rights of action against the owner as the seller has against the common purchaser who refuses to buy, and the seller refusing to sell shall be subject to the same penalties as are provided against the common purchaser who refuses to buy. This Section shall not affect in any way a municipal corporation engaged in buying and selling natural gas.

(Source: Acts 1918, No. 270, §2; Acts 1934, No. 113, §2.)

SECTION 43. Discrimination by purchaser.

No common purchaser shall discriminate between like grades and pressures of natural gas, or in favor of its own production or of production in which he may be directly or indirectly interested, either in whole or in part, but for the purpose of pro-rating the natural gas to be marketed, this production shall be treated in like manner as that of any other producer or person, and shall be taken only in the ratable proportion this production bears to the total production available for marketing.

(Source: Acts 1918, No. 270, §3.)

SECTION 44. Gas to be measured by meter.

All gas produced from the deposits of this state when sold shall be measured by meter and the commissioner of conservation shall, upon notice and hearing, relieve any common purchaser from purchasing gas of an inferior quality or grade, and the commissioner shall from time to time make such regulations for delivery, metering and equitable purchase and taking as conditions may necessitate.

(Source: Acts 1918, No. 270, §4.)

SECTION 45. Commissioner of Conservation to enforce part.

The commissioner of conservation shall see that the provisions of this Part are fully and properly complied with and the district attorney in whose district a violation takes place shall, on application, bring suit if necessary to enforce the provisions of this Part. Any injunction which may be necessary shall be furnished without bond.

(Source: Acts 1918, No. 270, §5.)

SECTION 46. Penalty.

Whoever violates the provisions of this Part shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not more than thirty days, or both. Each day the violation continues shall constitute a separate offense.

(Source: Acts 1918, No. 270, §6; Acts 1952, No. 132, §1.)
PART IV. PRESCRIPTION OF PENALTIES

SECTION 51. Prescription of penalties.
Any suit by an official or agency responsible for the enforcement of a law, order, or regulation governing the production, transportation and marketing of oil and gas, or products thereof, to enforce in civil proceedings a penalty by means of a money judgment or a forfeiture of property, shall be instituted within three years after the violation shall have been made known to the attorney general. This Part shall not affect a suit heretofore filed or any violation occurring prior to its effective date.
(Source: Acts 1944, No. 273, §1.)

PART V. EXPLOITATION OF NATURAL RESOURCES

SECTION 61. Exploitation of natural resources by commissioner or employees prohibited.
Neither the commissioner of conservation nor any salaried officer or employee of the department shall be or become:
(1) actively interested in the exploiting for personal gain of any natural resources in the state;
(2) employed by any person engaged in exploiting any natural resources in the state;
(3) an officer of or a member of the board of directors of any corporation engaging in the exploitation of natural resources of the state.
Violation of this Section shall constitute grounds for removal from office or dismissal from employment.
(Source: Acts 1942, No. 301, §1.)

Any violation of the provisions of R.S. 30:61 ipso facto operates as an immediate forfeiture to the state of all rights, property, money, or things of value acquired by the violation, from, upon, under or out of property privately owned or leased from any municipality or public board, body, commission, or agency of the state. The rights of the state respecting these forfeitures are imprescriptible.
(Source: Acts 1942, No. 301, §3.)

SECTION 63. Transfer of rights acquired in violation of R.S. 30:61 null.
Any sale, lease, exchange, transfer, or assignment by any of the persons mentioned in R.S. 30:61 of any rights, property, or things of value acquired in violation of that Section is null and void ab initio.
(Source: Acts 1942, No. 301, §§2,4.)

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STATE

OIL AND GAS BOARD

State of Mississippi

Statutes

Rules of Procedure

Statewide Rules and Regulations

JOE R. FANCHER, JR., Chairman
JOHN P. MALONEY, Vice Chairman
EUPLE DOZIER
JOSH MORRIS
REESE SENTER
CLYDE R. DAVIS
Supervisor
THERESA MOODY
Hearings Administrator
TITLE 53

OIL, GAS, AND OTHER MINERALS

CHAPTER 1. State Oil and Gas Board.

CHAPTER 3. Development, Production and Distribution of Gas and Oil.

CHAPTER 1

State Oil and Gas Board

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53-1-3. Definitions.
53-1-5. Board created.
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CONTRIBUTIONS TO INTERSTATE OIL COMPACT COMMISSION

53-1-101. Authority to contribute to interstate oil compact commission.

§ 53-1-1. Declaration of policy.

It is hereby declared to be in the public interests to foster, encourage and promote the development, production and utilization of the natural resources of oil and gas in the State of Mississippi; and to protect the public and private interests against the evils of waste in the production and utilization of oil and gas, by prohibiting waste as herein defined; to safeguard, protect and enforce the co-equal and correlative rights of owners in a common source or pool of oil and gas to the end that each such owner in a common pool or source of supply of oil and gas may obtain his just and equitable share of production therefrom; and to obtain, as soon as practicable, consistent with the prohibition of waste, the full development by progressive drilling of other wells in all producing pools of oil and gas or of all pools which may hereafter be brought into production of such, within the state, until such pool is fully defined.

It is not the intent nor the purpose of this law to require or permit the proration or distribution of the production of oil and gas among the fields and pools of Mississippi, on the basis of market demand. It is the intent and purpose of this law to permit each and every oil and gas pool in Mississippi to be produced up to its maximum efficient rate of production, subject to the prohibition of waste as herein defined, and subject further to the enforcement and protection of the co-equal and correlative rights of the owners of a common source of oil and gas, so that each common owner may obtain his just and equitable share of production therefrom.

SOURCES: Codes, 1942, § 6132-01; Laws, 1948, chap. 256, § 1.

§ 53-1-3. Definitions.

Unless the context otherwise requires, the words defined in this section shall have the following meaning when found in sections 53-1-1 to 53-1-47, inclusive, and in sections 53-3-3 to 53-3-21, inclusive:

(a) "Board" shall mean the state oil and gas board as created by section 53-1-5.

(b) "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor,
administrator, fiduciary, representative of any kind, or any other group acting as a unit, and the plural as well as the singular number.

(c) "Oil" shall mean crude petroleum oil and all other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas.

(d) "Gas" shall mean all natural gas, whether hydrocarbon or nonhydrocarbon or any combination or mixture thereof, including hydrocarbons, hydrogen sulphide, helium, carbon dioxide, nitrogen, hydrogen, casinghead gas, and all other hydrocarbons not defined as oil in subsection (c) above.

(e) "Pool" shall mean an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is included in the term "pool" as used herein.

(f) "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one pool; and "field" shall include the underground reservoir or reservoirs containing oil or gas or both. The words "field" and "pool" means the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools.

(g) "Owner" shall mean the person who has the right to drill into and produce from any pool, and to appropriate the production either for himself or for himself and another or others; "royalty owner" shall mean any person who possesses an interest in the production but who is not an "owner" as herein defined.

(h) "Producer" shall mean the owner of a well or wells capable of producing oil or gas or both.

(i) "Product" shall mean any commodity made from oil or gas, and shall include refined crude oil, processed crude petroleum residuum from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, casinghead gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil, condensate, gas or petroleum hydrocarbons, whether hereinabove enumerated or not.

(j) "Illegal oil and illegal gas" shall mean oil or gas which has been produced within the State of Mississippi from any well
during any time that the well has produced in excess of the amount allowed by law or by any rule, regulation or order of the board. “Illegal product” shall mean any product derived, in whole or in part, from illegal oil or illegal gas.

(k) “Waste” shall mean and include the following:

(1) The inefficient, excessive, or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner which results or tends to result in reducing the quantity of oil or gas ultimately to be recovered from any pool in this state.

(2) The inefficient storing of oil; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of oil or gas.

(3) Abuse of the correlative rights and opportunities of each owner of oil or gas in a pool due to non-uniform, disproportionate, or unattainable withdrawals causing undue drainage between tracts of land or resulting in one or more owners in such pool producing more than his just and equitable share of the production from such pool.

(4) Producing oil or gas in such manner as to cause unnecessary channeling of water or gas or both or coning of water.

(5) The operation of any oil well or wells with an inefficient gas-oil ratio.

(6) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(7) The creation of unnecessary fire hazards.

(8) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

(9) Permitting gas produced from a gas well to escape into open air.

(10) The use of gas from gas wells, except sour gas, for the manufacture of carbon black, except and unless the board shall find that there are no adequate pipe line connections to otherwise market the gas.

(11) “Drainage unit” or “drilling unit” shall mean the maximum area in a pool which may be drained efficiently by one
well so as to produce the reasonable maximum recoverable oil or
gas in such area.

(m) "Developed area" or "developed unit" shall mean a
drainage unit having a well completed therein which is capable of
producing oil or gas in paying quantities.

(n) A "certificate of compliance" shall mean a certificate
issued by the board showing compliance with the conservation
laws of the state, and conservation rules, regulations and orders
of the board, prior to connection with a pipe line.

(o) A "certificate of clearance" shall mean a permit for the
transportation or the delivery of oil, gas or products, approved
and issued or registered under the authority of the board.

(p) "Supervisor" or "state oil and gas supervisor" shall mean
the officer appointed by the state oil and gas board pursuant to
section 53-1-7.

SOURCES: Codes, 1942, § 6132-08; Laws, 1948, ch. 256, § 4.

§ 53-1-5. Board created.

(a) There is hereby created and established a board to be
known as the state oil and gas board composed of five members;
one of whom shall be appointed by the lieutenant governor for a
term of four years; and one of whom shall be appointed by the
attorney general for a term of four years, which said two members
shall be appointed, one from each of the U.S. District Court
Districts; and three of whom shall be appointed by the governor,
one from each of the supreme court districts for terms of the
following duration: One member from the First Supreme Court
District for a term of two years; one member from the Second
Supreme Court District for a term of four years; and one member
from the Third Supreme Court District for a term of six years.
However, there shall be no more than two members from any one
supreme court district.

At the expiration of the term of the members appointed by the
lieutenant governor and attorney general, each successor
member shall be appointed for a term of four years by the
incumbent of the respective office. At the expiration of a term for
which each of the original appointments of the governor is made,
each successor member shall be appointed for a term of six years.
In the event of a vacancy, the governor, lieutenant governor or
attorney general, as the case may be, shall, by appointment, fill
such unexpired term. All members shall be confirmed by the
senate. Each member shall be eligible for reappointment at the
discretion of the appointing officer. The board shall elect from its
number a chairman and a vice chairman. Each member of the board shall be a citizen of the United States, and a resident of the State of Mississippi, and a qualified elector therein, of integrity and sound and nonpartisan judgment. Each member shall qualify by taking the oath of office and shall hold office until his successor is appointed and qualified. The board shall establish its principal office at Jackson, Mississippi, at which the records of the board shall be kept.

Each member of the board shall receive as compensation for his services an annual salary of four thousand four hundred dollars ($4,400.00), except the chairman of the board who shall receive as compensation for his services an annual salary of five thousand dollars ($5,000.00).

(b) The board shall meet and hold hearings at such times and places as may be found by the board, or a majority thereof, to be necessary to carry out its duties. A majority of the board shall constitute a quorum, and three affirmative votes shall be necessary for adoption or promulgation of any rule, regulation or order.

(c) Where a question which has been presented or has arisen to be acted upon by the board directly affects the interest of a member or members of the board, such member or members shall recuse himself or themselves from acting upon such question.

(d) The board shall adopt an official seal and may sue and be sued.


Cross references—
As to creation, composition, powers, and duties of state mineral lease commissions, see §§ 29-7-1 et seq.
As to creation, composition, powers, and duties of board of geological, economic, and topographical survey, see §§ 53-5-1 et seq.
As to creation, composition, powers, and duties of state agricultural and industrial board, see §§ 57-1-1 et seq.
As to powers and duties of governor, see Chapter 1 of Title 7.
As to powers and duties of attorney general, see Chapter 5 of Title 7.

§ 53-1-7. State supervisor.

The board shall appoint a state oil and gas supervisor, herein called supervisor, who shall receive as compensation for his
services an annual salary to be fixed by law. The supervisor shall be a competent petroleum engineer or geologist with at least five years experience in one of such professions. The supervisor, under the direction of the board, shall be charged with the duty of enforcing sections 53-1-1 to 53-1-47 and sections 53-3-3 to 53-3-21, and all rules, regulations and orders promulgated by the board. The supervisor shall be ex-officio secretary of the board and shall give bond, in such sum as the board may direct, with corporate surety to be approved by the board, conditioned that he will well and truly account for all funds coming into his hands as such secretary. He shall remit to the state treasurer all moneys collected by him as such secretary for deposit in trust for the use of the board in a special fund known as the oil and gas conservation fund to be expended as provided by law.

The supervisor shall devote his entire time to his official duties.

SOURCES: Codes, 1942 §§ 6132-03, 6132-06; Laws, 1948, ch. 256, §§ 3a, 3d; 1950, ch. 220, § 1.

Cross references—
For another section derived from same 1942 code section, see § 53-1-13.
As to annual salary of secretary-supervisor of state oil and gas board, see § 253-3-33.
As to oil and gas conservation fund, see § 53-1-77.

§ 53-1-9. Employees.

The supervisor, with the concurrence of the board, shall have the authority, and it shall be his duty, to employ all personnel necessary to carry out the duties and responsibilities fixed upon the board by law at such compensation as the board may fix. No person shall be permanently employed by the board who is not a resident and qualified elector of the State of Mississippi.

SOURCES: Codes, 1942, § 6132-04; Laws, 1948, ch. 256, § 3b; 1950, ch. 220, § 1.

§ 53-1-11. Attorney for board.

The attorney general shall be the attorney for the board. However, the board may, in cases of emergency, or in special cases, from any funds available, upon the request of the attorney general, retain additional counsel to assist the attorney general. Any member of the board, or the secretary thereof, shall have the power to administer oaths to any witness in any hearings,
investigations, or proceedings contemplated by this chapter or by any other law of this state relating to the conservation of oil and gas.

SOURCES: Codes, 1942, § 6132-05; Laws, 1948, ch. 256, § 3c; 1950, ch. 220, § 1.

Cross references—
As to appointment and employment by attorney general of assistant attorneys general and special assistant attorneys general, see § 7-5-5.
As to duty of attorney general to represent state and state officers in suits, see § 7-5-39

§ 53-1-13. Eligibility to serve on board.

No person while engaged in the business of, or in the employ of, or holding an official connection or position with, any person, firm, partnership, corporation or association engaged in the business of buying or selling mineral leases or minerals, drilling wells in search of oil or gas, producing, transporting, refining or distributing crude oil or natural gas in this state, or any other state, shall be eligible as a member of the board or as an employee thereof.


Cross references—
For another section derived from same 1942 code section, see § 53-1-7.


Each member of the board, its employees, and the supervisor shall be reimbursed for necessary and reasonable traveling expenses while traveling on the business of the board upon a signed itemized statement thereof approved by the board. The board may incur the necessary and reasonable expenses for the purpose of carrying out its duties and responsibilities as fixed by law.

SOURCES: Codes, 1942, § 6132-07; Laws, 1948, ch. 256, § 3e; 1950, ch. 220, § 1

§ 53-1-17. Powers of board.

(a) The board shall have jurisdiction and authority over all persons and property necessary to administer and enforce effectively the provisions of this chapter and all other laws relating to the conservation of oil and gas.

(b) The board shall have the authority, and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste, over which it has jurisdiction, exists or is imminent. In the exercise of such power, the board shall have the authority to collect data; to make investigations and inspections; to examine properties, leases, papers, books and records,
including drilling records and logs; to examine, check, test and
gauge oil and gas wells, tanks, refineries, and modes of
transportation; to hold hearings; to require the keeping of records
and the making of reports; and to take such action as may be
reasonably necessary to enforce the provisions of Sections 53-1-1
through 53-1-47, inclusive, and Sections 53-3-1 through 53-3-21,
inclusive.

(c) The board shall have the authority, and it shall be its
duty, to make after notice and hearing as hereinafter provided,
such reasonable rules, regulations, and orders as may be
necessary from time to time in the proper administration and
enforcement of the provisions of Sections 53-1-1 through 53-1-47,
inclusive, and Sections 53-3-1 through 53-3-21, inclusive, and to
amend the same after due notice and hearing, including but not
limited to rules, regulations and orders for the following purposes:

(1) To require that the drilling, casing and plugging of wells
be done in such a manner as to prevent the escape of oil or gas out
of one stratum to another; to prevent the intrusion of water into
an oil or gas stratum from a separate stratum; to prevent the
pollution of fresh water supplies by oil, gas or salt water; and
generally to prevent waste as herein defined. The duty is hereby
imposed upon the State Oil and Gas Board to make suitable and
adequate rules and regulations, subject to the approval of the
Mississippi Air and Water Pollution Control Commission,
requiring the disposal of waste products such as but not limited to
mud, acids, salt water, or any corrosive products brought to the
surface from any oil, gas or condensate well in this state, to
prevent seepage, overflow, or any irreparable damage and injury
to the topsoil or surface. It is the policy of the state not only to
conserve minerals but to conserve and protect its surface lands
for agriculture, timber, and any and all other beneficial purposes,
and the destruction of surface lands where reasonable means of
their protection exist shall no longer be permitted.

(2) To require the making of reports showing the location of
oil and gas wells; to require the filing, within thirty (30) days from
the time of the completion of any wells drilled for oil or gas, of logs
and drilling records.

(3) To require a reasonable bond with good and sufficient
surety conditioned for the performance of the duties outlined in
subsections (1) and (2) above, including the duty to plug each dry
or abandoned well.

(4) To prevent the drowning by water of any stratum or part
thereof capable of producing oil or gas in paying quantities and to
prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(5) To require the operation of wells with efficient gas-oil ratios, and to fix the limits of such ratios.

(6) To prevent "blowouts," "caving," and "seepage" in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(7) To prevent the creation of unnecessary fire hazards.

(8) To identify the ownership of all oil and gas wells producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(9) To regulate the shooting, perforating and chemical treatment of wells.

(10) To regulate secondary recovery methods, including the introduction of gas, air, water or other substances into producing formations.

(11) To regulate the spacing of wells and to establish drilling units.

(12) To allocate and apportion the production of oil or gas, or both, from any pool or field for the prevention of waste as herein defined, and to allocate such production among or between tracts of land under separate ownership in such pool on a fair and equitable basis to the end that each such tract will be permitted to produce not more than its just and equitable share from the pool. The owners and producers of each discovery well located in a new field or pool shall certify to the oil and gas board an itemized list of the expenses incurred in the actual drilling of such well. The oil and gas board shall investigate such cost and shall certify the amount found by them to be correct. The discovery well shall not be liable to the restrictions of Sections 53-1-1 through 53-1-47, inclusive, and Sections 53-3-1 through 53-3-21, inclusive, until the cost of drilling such well shall have been recovered in oil or gas from said discovery well. Such cost having been recovered, the discovery well shall be subject to the terms of said sections as are other wells in the field.

(13) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(14) To require all of those making settlement with the owners of oil or gas interests to render statements to such owners
showing the quantity and gravity purchased and the price per barrel of oil or one thousand (1,000) cubic feet of gas.

(15) To require, either generally or with respect to particular areas, certificates of clearance in connection with the transportation or delivery of oil, gas, or any product thereof.

(16) To promulgate rules and regulations governing safety of storage of liquefied petroleum gases in underground storage wells, but the jurisdiction of the State Oil and Gas Board regarding safety shall cease upon reaching header on flow line beyond associated wellhead facilities, which includes the wellhead, manual and automatic safety valves, automatic shut-in safety devices, flow lines from wellhead to header, brine lines, and tanks or pits and flares.

(d) In order to carry out its duties and responsibilities as fixed by law, the board is authorized and empowered to purchase, own and operate automobiles in the number and in the manner specified in Section 25-1-85.

SOURCES: Codes, 1942, § § 6132-10, 6132-10.5; Laws, 1932, ch. 117; 1948, ch. 256, § 6; 1956, ch. 163, § § 1, 2; 1970, ch. 301, § 1, eff from and after passage (approved March 26, 1970); 1975, ch. 419, § 1, eff from and after passage (approved March 26, 1975).

Cross references—
As to duty of state oil and gas board to cooperate with state tax commission, see § 29-1-133.

§ 53-1-19. Rules of procedure before board; shorthand reporter; original transcript of testimony.

The board shall prescribe its rules of order or procedure in hearings or other proceedings before it and it shall promptly furnish without charge copies thereof upon request. By appropriate order entered on its minutes, the board shall appoint a competent shorthand reporter to be present throughout all public hearings held by it, who shall be sworn by the board faithfully to discharge his duties. The board shall have the same control and authority over the reporter for the board that the circuit judge exercises over the court reporter for the circuit court; and the duties of the reporter for the board shall be the same as those fixed by statute for court reporters in Mississippi insofar as said statutes may be applicable. The original transcript of testimony taken in the hearing before the oil and gas board and reduced to writing by the reporter for the board shall be ample evidence of such proceedings and, on appeal to the circuit court, the original of such transcript of testimony shall be used in the circuit court.
Further, in the event of an appeal from the circuit court to the supreme court, such original transcript of testimony taken before the oil and gas board shall be likewise used in the supreme court. The reporter for the oil and gas board shall prepare a sufficient number of copies of such transcript of testimony before the oil and gas board as will permit a copy of same to be on file with the oil and gas board and another copy to be on file at all times with the circuit clerk in event of an appeal to the supreme court.

SOURCES: Codes, 1942, § 6132-11; Laws, 1948, ch. 256, § 7a; 1950, ch. 220, § 2; 1958, ch. 185, § 1a.

Cross references—
As to court reporters and court reporting generally, see Chapter 13 of Title 9.
As to appeals to circuit court by those aggrieved by any final rule, regulation or order of state oil and gas board, see § 53-1-39.

No rule, regulation, or order and no change, renewal, or extension thereof, shall, in the absence of an emergency, be made by the board except after a public hearing upon at least ten days' notice, which notice may be given by publication in some newspaper of general circulation in the state and also in a newspaper of general circulation in the county or counties in which pools are located, in the manner and form as may be prescribed by the board, or by such other method as may be prescribed by the board by general rule. Such public hearing shall be held at such time and at such place as may be prescribed by the board, and any person having any interest in the subject matter shall be entitled to be heard.

SOURCES: Codes, 1942, § 6132-12; Laws, 1948, ch. 256, § 7b; 1950, ch. 220, § 2; 1958, ch. 185, § 1b.

Cross references—
As to newspapers in which legal notices may be published, see § 13-3-31.
As to proof of publication of legal notices, see § 13-1-143.

§ 53-1-23. Emergency rules, regulations, or orders.
In the event an emergency is found to exist by the board, which, in its judgment, requires the making, changing, renewal, or extension of a rule, regulation, or order without first having a hearing, such emergency rule, regulation, or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation or order permitted by this section shall remain in force no longer than forty-five days from its effective date, and, in any event, it shall expire when the rule, regulation, or order made after due notice
and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective.

SOURCES: Codes, 1942, § 6132-13; Laws, 1948, ch. 256, § 7c; 1950, ch. 220, § 2; 1958, ch. 185, § 1c.

§ 53-1-25. Notice and service of process.

In any instance the board may give notice by personal service, in which event written notice thereof may be issued by any member of the board or by the supervisor, and service thereof may be made by any officer authorized to serve process or by any agent of the board in the same manner as is provided by law for the service of summons in civil actions in the circuit courts of this state. Proof of the service by such officer or agent shall be by written certificate of the person making personal service.

SOURCES: Codes, 1942, § 6132-14; Laws, 1948, ch. 256, § 7d; 1950, ch. 220, § 2; 1958, ch. 185, § 1d.

Cross references—
As to service of summons generally, see § 13-3-33.

§ 53-1-27. Record of rules, regulations and orders.

All rules, regulations, and orders made by the board shall be in writing and shall be entered in full by the secretary of the board in a book to be kept for such purpose by the board, which shall be a public record and open to inspection at all times during reasonable office hours. A copy of any rule, regulation, or order, certified by a member of the board, or the secretary thereof, shall be received in evidence in all courts of this state with the same effect as the original.

SOURCES: Codes, 1942, § 6132-15; Laws, 1948, ch. 256, § 7e; 1950, ch. 220, § 2; 1958, ch. 185, § 1f.

Any interested person shall have the right to have the board call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the board by making a request therefor in writing. Upon the receipt of any such request, the board promptly shall call a hearing thereon, and, after such hearing and with all convenient speed, and in any event within thirty days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate.

SOURCES: Codes, 1942, § 6132-16; Laws, 1948, ch. 256, § 7f; 1950, ch. 220, § 2; 1958, ch. 185, § 1f.
§ 53-1-29. Request for hearing.

Any interested person shall have the right to have the board call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the board by making a request therefor in writing. Upon the receipt of any such request, the board promptly shall call a hearing thereon, and, after such hearing and with all convenient speed, and in any event within thirty days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate.

SOURCES: Codes, 1942, § 6132-16; Laws, 1948, ch. 256, § 7f; 1950, ch. 220, § 2; 1958, ch. 185, § 1f.

§ 53-1-31. Records; inspection by public.

All well logs, casing records, compiled data and other information shall be properly indexed and suitably recorded in the permanent records of the board and shall be open to inspection by the public at all times during reasonable office hours.

SOURCES: Codes, 1942, § 6132-17; Laws, 1932, ch. 117; 1948, ch. 256, § 7g; 1950, ch. 220, § 2; 1958, ch. 185, § 1g.

§ 53-1-33. Board and its representatives to have access to all wells.

The board and its representatives or employees shall have access to all wells drilled for oil or gas at any and all times, and any person operating or controlling any lease or property shall permit them to go upon same and inspect any and all wells and well records, while the wells are being drilled and at all other times, and to have such control of such property, machinery and appliances as may be requisite to gauge the wells. However, the well records of any well drilled in unproved territory shall not be subject to such inspection until thirty days after the completion of the well.

SOURCES: Codes, 1942, § 6132-18; Laws, 1932, ch. 117; 1948, ch. 256, § 8a.

§ 53-1-35. Subpoena of witnesses; contempt.

(a) The board, or any member thereof, or the supervisor is hereby empowered to issue subpoenas for witnesses, to require their attendance and the giving of testimony before the board, and to require the production of such books, papers, and records in any proceeding before the board as may be material upon questions lawfully before the board. Such subpoenas shall be
served by the sheriff or any other officer authorized by law to serve process in this state. No person shall be excused from attending and testifying, or from producing, books, papers, and records before the board or a court, or from obedience to the subpoena of the board, or any member thereof, or the supervisor or a court on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, nothing herein contained shall be construed as requiring any person to produce any books, papers, or records, or to testify in response to any inquiry, not pertinent to some question lawfully before such board or court for determination. No natural person shall be subject to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be required to testify or produce evidence, documentary or otherwise, before the board or court, or in obedience to any such subpoena, but no person testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(b) In case of failure or refusal on the part of any person to comply with any subpoena issued by the board, or any member thereof, or the supervisor, or in case of the refusal of any witness to testify or answer to any matter regarding which he may be lawfully interrogated, the judge of the circuit court of the county of the residence of such person, if a resident of Mississippi, or the judge of the circuit court of the county in which the land lies, or any portion thereof, out of which the controversy arises, if such person is not a resident of the State of Mississippi, on application of the board, or any member thereof, or the supervisor, may, in term time or vacation, issue an attachment for such person and compel him to comply with such subpoena and to attend before the board and produce such documents, and give his testimony upon such matters, as may be lawfully required; and such court shall have the power to punish for contempt as in case of disobedience of like subpoenas issued by or from such court, or for a refusal to testify therein.

SOURCES: Codes, 1942, § 6132-19; Laws, 1948, ch. 256, § 8b, c.

Cross references—
As to subpoenas of witnesses in civil cases generally, see § 13-3-93.
As to subpoenas of witnesses in criminal cases generally, see § 99-9-11.
As to service of subpoenas in civil cases, see § 13-3-101.
As to service of subpoenas in criminal cases, see § 99-9-17.
§ 53-1-37. Service of notices and process upon board.

All notices or other process authorized or required to be served upon the board may be served upon the supervisor or upon any member of the board.

SOURCES: Codes, 1942, § 6132-20; Laws, 1948, ch. 256, § 8d.


(a) In addition to other remedies now available, the state, or any interested person aggrieved by any final rule, regulation or order of the board, shall have the right, regardless of the amount involved, or appeal to the circuit court of the first judicial district of Hinds County, Mississippi, or to the circuit court of the county in which all or a part of appellant’s property affected by such rule, regulation or order is situated, which shall be taken and perfected as hereinafter provided, within thirty days from the date of such final rule, regulation or order; and the said circuit court may affirm such rule, regulation or order, or reverse same for further proceedings as justice may require. All such appeals shall be taken and perfected, heard and determined either in term time or in vacation on the record, including a transcript of pleadings and testimony, both oral and documentary, filed and heard before the board, and such appeal shall be heard and disposed of promptly by the court as a preference cause. In perfecting any appeal provided by this section, the provisions of law respecting notice to the reporter and the allowance of bills of exception, now or hereafter in force respecting appeals from the circuit court to supreme court shall be applicable. However, the reporter shall transcribe his notes and file the transcript of the record with the board within thirty days after approval of the appeal bond.

(b) Upon the filing with the board of a petition for appeal to the circuit court, it shall be the duty of the board, as promptly as possible, and in any event within sixty days after approval of the appeal bond, to file with the clerk of the circuit court to which the appeal is taken, a copy of the petition for appeal and of the rule, regulation or order appealed from, and the original and one copy of the transcript of the record of proceedings in evidence before the board. After the filing of said petition, the appeal shall be perfected by the filing of bond in the sum of five hundred dollars ($500.00) with two sureties or with a surety company qualified to do business in Mississippi as the surety, conditioned to pay the cost of such appeal; said bond to be approved by any member of the board or by the supervisor, or by the clerk of the court to which such appeal is taken. The perfection of an appeal shall not stay or suspend the operation of any rule, regulation or order of the board, but the judge of the circuit court to which the appeal is
taken may award a writ of supersedeas to any rule, regulation or order of the board after five days' notice to the board and after hearing. Any order or judgment staying the operation of any rule, regulation or order of the board shall contain a specific finding, based upon evidence submitted to the circuit judge and identified by reference thereto, that great or irreparable damage would result to the appellant if he is denied relief, and the stay shall not become effective until a supersedeas bond shall have been executed and filed with and approved by the clerk of the court or the circuit judge; payable to the state. The bond shall be in an amount fixed by the circuit judge and conditioned as said circuit judge may direct in the order granting the supersedeas.

SOURCES: Codes, 1942, § 6132-24; Laws, 1948, ch. 256, § 12a, b; 1958, ch. 185, § 2a, b.

Cross references—
As to appointment of shorthand reporter by state oil and gas board, see § 53-1-19.

§ 53-1-41. Injunctions against board.

(a) No temporary restraining order or injunction of any kind shall be granted against the board, or against any agent, employee or representative of said board restraining the board, or any of its agents, employees or representatives, from enforcing any statute of this state relating to conservation of oil and gas, or any of the provisions of sections 53-1-1 to 53-1-47, inclusive, and sections 53-3-1 to 53-3-21, inclusive, or any rule, regulation or order made thereunder, except after due notice to said board, and to all other defendants, and after a hearing at which it shall be clearly shown to the court that the act done or threatened is without sanction of law, or that the provision of law, or the rule, regulation or order complained of, is invalid, and that, if enforced against the complainant, will cause an irreparable injury. With respect to any order or decree granting temporary injunctive relief, the nature and extent of the probable invalidity of the statute, or of any provision of the aforesaid sections, or of any rule, regulation or order thereunder involved in such suit, must be recited in the order or decree granting the temporary relief, as well as a clear statement of the probable damage relied upon by the court as justifying temporary injunctive relief.

(b) No temporary injunction, or temporary restraining order of any kind against the board, or its agents, employees or representatives shall become effective until the complainant shall execute a bond in such amount and upon such conditions as the court may direct.

SOURCES: Codes, 1942, § 6132-25; Laws, 1948, ch. 256, § 12c, d; 1958, ch. 185, § 2c, d.
§ 53-1-43. Suits to restrain violations or threatened violations.

(a) Whenever it shall appear that any person is violating or threatening to violate any statute of this state with respect to the conservation of oil and gas, or any provision of sections 53-1-1 to 53-1-47, inclusive, and sections 53-3-1 to 53-3-21, inclusive, or any rule, regulation or order made by the board thereunder, and fails or refuses to cease such violation or threats of violation on notice so to do, by the board or supervisor, the board may bring suit against such person in the chancery court in the county of the residence of the defendant, or in the county of the residence of any defendant, if there be more than one defendant, or in the county where the violation is alleged to have occurred or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. In such suit the board may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, as the facts may warrant, including, when appropriate, an injunction restraining any person from moving or disposing of any illegal oil, illegal gas, illegal condensate, or illegal product.

(b) In the event the board should fail to bring suit within ten days to enjoin any actual or threatened violation of any statute of this state with respect to the conservation of oil and gas, or of any provision of sections 53-1-1 to 53-1-47, inclusive, and sections 53-3-1 to 53-3-21, inclusive, or of any rule, regulation or order made thereunder, then any person or party in interest adversely affected by such violation, and who has notified the board in writing of such violation, or threat thereof, and has requested the board to sue, may, to prevent any or further violation, bring suit for that purpose in the chancery court of any county in which the board could have brought suit, and the board shall be made a party to such suit.


§ 53-1-45. Appeals to supreme court.

An appeal may be taken, in accordance with the general laws of the State of Mississippi relating to appeals, from any judgment of the circuit court or decree of any chancery court in any appeal proceeding brought under authority of this section; and such appeal, when docketed in the supreme court, shall be placed on the preference docket of such court, and may be advanced as such court may direct.

§ 53-1-47. Penalty for violations.

(a) Any person, who, for the purpose of evading the provisions of sections 53-1-1 to 53-1-47, inclusive, or sections 53-3-1 to 53-3-21, inclusive, or any rule, regulation or order made thereunder, shall intentionally make or cause to be made any false entry, statement of fact or omission in any report required by said sections or by any rule, regulation or order thereunder or in any account, record or memorandum kept in connection with the provisions thereof or who, for such purpose, shall mutilate, alter, conceal or falsify any such report, account, record or memorandum shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than five hundred dollars ($500.00) or imprisonment for a term of not more than six (6) months, or to both such fine and imprisonment.

(b) Any person who knowingly and willfully violates any provision of sections 53-1-1 to 53-1-47, inclusive, or sections 53-3-1 to 53-3-21, inclusive, or any rule, regulation or order of the board made thereunder, shall, in the event a penalty for such violation is not otherwise provided for herein, be subject to a penalty of not to exceed five hundred dollars ($500.00) a day for each and every day of such violation, and for each and every act of violation, such penalty to be recovered in a suit in the circuit court of the county where the defendant resides, or in the county of the residence of any defendant, if there be more than one defendant, or in the circuit court of the county where the violation took place. The payment of any penalty as provided herein shall not have the effect of changing illegal oil into legal oil, illegal gas into legal gas, or illegal product into legal product, nor shall such payment have the effect of authorizing the sale or purchase or acquisition or the transporation, refining, processing, or handling in any other way of such illegal oil, illegal gas, or illegal product.

(c) Any person knowingly and willfully aiding or abetting any other person in the violation of any provision of sections 53-1-1 to 53-1-47, inclusive, or sections 53-3-1 to 53-3-21, inclusive, or any rule, regulation, or order made thereunder, shall be subject to the same penalties as are prescribed herein for the violation by such other person.

SOURCES: Codes, 1942, § 6132-28; Laws, 1948, ch. 256, § 15.
ADMINISTRATION EXPENSE TAX
§ 53-1-71. Definitions for §§ 53-1-73 to 53-1-77.

As used in sections 53-1-73 to 53-1-77:

The term “barrel of oil” shall be 42 United States standard gallons corrected to 60 degrees Fahrenheit and all measurements for volume shall be in 100% tank strappings.

“Cubic foot of gas” shall be that volume of gas which occupies one cubic foot of space at a pressure of 10 ounces above an assumed atmospheric pressure of 14.4 pounds per square inch corrected to 60 degrees Fahrenheit flowing temperature.

The term “person” shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, representative of any kind, or any other group acting as a unit, and the plural as well as the singular number.


§ 53-1-73. Tax imposed to pay for administration expenses.

For the purposes of paying the costs and expenses incurred in connection with the administration and enforcement of the oil and gas conservation laws of the State of Mississippi and of the rules, regulations and orders of the State Oil and Gas Board, there is hereby levied and assessed against each barrel of oil produced and saved in the State of Mississippi a charge not to exceed six (6) mills on each barrel of such oil, and against each one thousand (1,000) cubic feet of gas produced, saved and sold a charge not to exceed two-fifths (2/5) mill on each one thousand (1,000) cubic feet of gas. The State Oil and Gas Board shall fix the amount of such charge in the first instances, and may, from time to time, change, reduce or increase the amount thereof, as in its judgment the charges against the fund may require, but the amounts fixed by said board shall not exceed the limits hereinabove prescribed, and it shall be the duty of the board to make collection of such assessments. All monies so collected shall be used exclusively to pay the expenses and other costs in connection with the functioning of the said State Oil and Gas Board and the administration of the oil and gas conservation laws of the State of Mississippi now in force or hereafter enacted, and the rules, regulations and orders of said board.

SOURCES: Codes, 1942, § 6132-44; Laws, 1948, ch. 318, § 1; ch. 342, § 1, eff from and after passage (approved March 10, 1975).

Cross references—
As to privilege tax on oil severed or produced in Mississippi, see Article 5 of Chapter 26 of Title 27.
As to privilege tax on natural gas severed or produced in Mississippi, see Article 7 of Chapter 25 of Title 27.
§ 53-1-75. Persons liable.

The persons owning an interest (working interest, royalty interest, payments out of production or any other interest) in the oil or gas subject to the charge provided for in section 53-1-73 shall be liable for such charge in proportion to their ownership at the time of production. The charge so assessed and fixed in section 53-1-73 shall be payable monthly and the persons hereinafter required to remit such charge shall remit the sum so due to the board on or before the 25th day of the month next following the month in which the production occurs out of which the assessment arises; such remittance to comply with any rules and regulations which may be adopted by the board in regard thereto.

Such remittances with respect to all production against which any assessment hereunder is levied shall be made by the following persons:

(a) With respect to assessments against oil or gas purchased in this state at the well, under any contract or agreement requiring payment for such production to the respective persons owning any interest therein (including working interests, royalty interests, payments out of production or any other interests in such production), by the person purchasing such production.

(b) With respect to any oil, or gas purchased in this state at the well without any contract or agreement requiring payment for such production to respective persons owning an interest therein, and with respect to any oil or gas produced from any well but not sold at said well, by the operator of the well from which the production is obtained.

The persons remitting the charge as herein provided are hereby authorized, empowered and required to deduct from any amounts due the persons owning an interest in the oil or gas at the time of production the proportionate amount of such charge before making payment to such owners.

SOURCES: Codes, 1942, § 6132-42; Laws, 1948, ch. 318, § 2.

§ 53-1-77. Oil and gas conservation fund.

The state oil and gas supervisor, as ex officio secretary of such board, shall remit to the state treasurer all monies collected by reason of the assessments made and fixed under the provisions of section 53-1-73, and the state treasurer shall deposit all such monies in a special fund known as the “oil and gas conservation fund,” which is hereby continued in effect.
All monies on deposit in the oil and gas conservation fund on April 10, 1948, and all monies hereafter deposited in such fund, shall be held in trust for the use of the board to pay the expenses and costs incurred in connection with the administration and enforcement of the oil and gas conservation laws of the State of Mississippi and the rules, regulations and orders of the state oil and gas board issued thereunder. Disbursements shall be made from such fund only upon requisition of the state oil and gas supervisor, as approved and allowed by the board, and which requisitions shall be supported by itemized statements thereto attached showing the purpose or purposes of such expenditures. Such requisitions shall be drawn upon the state auditor, who shall issue a warrant upon said fund. Such warrants so issued shall be paid by the state treasurer upon presentation.

The state oil and gas supervisor, as ex officio secretary of the oil and gas board, shall submit, within ten days, after the convening of each session of the legislature, to the legislature a detailed report of all receipts, expenditures and balance on hand, of funds coming to the oil and gas board from any source whatsoever.

SOURCES: Codes, 1942, § 6132-43; Laws, 1948, ch. 318, § 3.

CONTRIBUTIONS TO INTERSTATE OIL COMPACT COMMISSION

§ 53-1-101. Authority to contribute to interstate oil compact commission.

The state oil and gas board is hereby authorized to pay annually out of the funds of said board the sum of two thousand dollars to the interstate oil compact commission.

SOURCES: Laws, 1950, ch. 217 § 1, eff from and after passage (approved March 10, 1950).
CHAPTER 3

Development, Production and Distribution of Gas and Oil

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53-3-1. Definitions for certain sections.
53-3-2. Waste unlawful.
53-3-3. Drilling and production regulated.
53-3-7. Integration of interests; pooling agreements and orders.
53-3-9. Allowable production; meters.
53-3-11. Notice of drilling of wells; permit.
53-3-13. Permit fee; disposition of fees.
53-3-15. Certificate of compliance required before connection with pipe lines; cancelation.
53-3-17. Illegal transactions.
53-3-19. Procedure for seizure and sale of illegal gas and oil as contraband.
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CO-OPERATIVE DEVELOPMENT AND OPERATION UNDER LEASES

53-3-51. Agreements for co-operative development and operation under leases by public officers.

FACILITIES FOR EXPLORATION, PRODUCTION, OR TRANSPORTATION
OF OIL OR GAS IN NAVIGABLE WATERS

53-3-71. Construction and operation of facilities for exploration, production, or transportation of oil or gas in navigable waters.
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UNITIZATION OF OIL AND GAS FIELDS AND POOLS

53-3-101. Applications.
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UNDERGROUND STORAGE OF NATURAL GAS

53-3-151. Definitions.
53-3-153. Legislative declaration.
53-3-155. Underground storage authorized pursuant to board’s order.

—25—
§ 53-3-1. Definitions for certain sections.

Unless the context otherwise requires, words and terms appearing in sections 53-3-3 to 53-3-21, inclusive, shall have the meaning attributed to them in section 53-1-3.

§ 53-3-3. Waste unlawful.

Waste of oil or gas as defined in section 53-1-3 is hereby made unlawful.

SOURCES: Codes, 1942, § 6132-09; Laws, 1932, ch. 117; 1948, ch. 256, § 5.

§ 53-3-5. Drilling and production regulated.

(a) The state oil and gas board shall have the power and authority and it shall be its duty, after due notice and a hearing, to regulate the drilling and location of wells in any pool and the production therefrom so as to prevent reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage) so that each owner in a pool shall have the right and opportunity to recover his fair and equitable share of the recoverable oil and gas in such pool.

(b) For the prevention of waste, to protect and enforce the correlative rights of the owners in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, or the reduced recovery which might result from too small a number of wells, the board shall, after a hearing, establish a drilling unit or units for each pool. The establishment of a unit for gas shall be limited and apply only to the production of gas and not oil.

(c) Each well permitted to be drilled upon any drilling unit shall be drilled in accordance with the rules and regulations promulgated by the board and in accordance with a spacing pattern fixed by the board for the pool in which the well is located with such exceptions as may be reasonably necessary where it is shown, after notice, and upon hearing, that the unit is partly outside the pool or, for some other reason, a well otherwise located on the unit would be nonproductive, or topographical conditions are such as to make the drilling at such location unduly burdensome. Whenever an exception is granted, the board shall
take such action as will offset any advantage which the person securing the exception may have over other producers by reason of the drilling of the well as an exception, but no well drilled and completed as an exception to prescribed footage limitations for the reason that a portion of the drilling unit upon which such well is located is partly outside the pool or productive horizon shall be allocated a reduced daily production allowable whenever it shall be demonstrated to the satisfaction of the board that the productive acreage underlying such drilling unit is equal to or more than, the reasonable minimum amount of productive acreage which would underlie such drilling unit under the minimum conditions which would permit the drilling of a well thereon so located as to comply with all applicable footage limitations. Each well drilled and completed as an exception to prescribed footage limitations for the reason that a portion of such drilling unit is partly outside the pool or productive horizon shall be allocated a reduced daily production allowable whenever it cannot be demonstrated to the satisfaction of the board that the productive acreage underlying such drilling unit is equal to, or more than, the minimum amount of productive acreage which would underlie such drilling unit under the minimum conditions which would permit the drilling of a well thereon so located as to comply with all applicable footage limitations. Such reduced allowable shall be allocated in proportion to the relationship which the productive acreage, as determined by the board, bears to the reasonable minimum amount of productive acreage which would underlie such drilling unit under the minimum conditions which would permit the drilling of a well thereon so located as to comply with all footage limitations applicable to such drilling unit. The reasonable minimum amount of productive acreage shall be determined for all purposes as if each oil well drilling unit were a regular governmental quarter-quarter section, comprising forty acres, more or less, and as if each gas well drilling unit were a regular governmental one half section, comprising three hundred twenty acres, more or less, and shall be calculated for the purpose of each oil well drilling unit as being the total acreage which would be encompassed within a triangular shaped area bounded on two sides by the exterior boundaries of such forty-acre drilling unit meeting at a 90° angle corner and on the third side by a straight line running on a 45° angle through a location point situated at the minimum distance out of such corner as shall be in accordance with prescribed oil well drilling unit footage limitations and intersecting each of such two exterior boundaries at 45° angles, and shall be calculated for the purposes of each gas well drilling unit as being the total acreage which would be encompassed within a triangular shaped area bounded on two
sides by the exterior boundaries of such three hundred twenty-acre drilling unit meeting at a 90° angle corner and on the third side by a straight line running on a 45° angle through a location point situated at the minimum distance out of such corner as shall be in accordance with prescribed gas well drilling unit footage limitations and intersecting each of such two exterior boundaries at 45° angles. Should drilling units for any field or area be established so as to permit the drilling of oil or gas wells on smaller or larger units than 40 acre or 320 acre drilling units then, in such event, the same method of determining the reasonable minimum amount of productive acreage shall be applied to the consideration of such oil or gas drilling units with respect to the size of, and the prescribed footage limitations applicable to, such drilling units.

(d) Except where otherwise provided, any allocation or apportionment of production shall be made on the basis of and in proportion to the surface acreage content of the drilling units prescribed for the producing horizons for the pools so that each such prescribed unit shall have equal opportunity to produce the same daily allowable, and any special unit of less than the prescribed amount of surface acreage shall be allowed to produce only in the proportion that the surface acreage content of any such special unit bears to the surface acreage content of the regular prescribed unit. In the event any well in attempting to make its allowable should be operated in a way that would commit waste as herein defined, or to the detriment of the field as a whole, the allowable for any such well shall be subject to adjustment.

SOURCES: Codes, 1942, § 6132-21; Laws, 1948, ch. 256, § 9; 1956, ch. 164, § 1.

§ 53-3-7. Integration of interests; pooling agreements and orders.

(a) When two or more separately owned tracts of land are embraced within an established drilling unit, the person owning the drilling rights therein and the rights to share in the production therefrom may validly agree to integrate their interests and to develop their lands as a drilling unit. Where, however, such persons have not agreed to integrate their interests, the board may, for the prevention of waste or to avoid the drilling of unnecessary wells require such persons to integrate their interests and to develop their lands as a drilling unit. All orders requiring such pooling shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and will afford to the owner of each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense.
The portion of the production allocated to the owner of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from such tract by a well drilled thereon. In the event such pooling is required, the cost of development and operation of the pooled unit chargeable by the operator to the other interested owner or owners shall be limited to the actual expenditures required for such purpose, not in excess of what are reasonable, including a reasonable charge for supervision. When production of oil or gas is not secured in paying quantities as a result of such forced unitization, the operator shall have no charge against the nonconsenting owner or owners. In the event of any dispute relative to such costs, the board shall determine the proper costs, after due notice to all interested parties and hearing thereon. Appeals may be taken from such determination as from any other order of the board.

(b) The state oil and gas board shall in all instances where a unit has been formed out of lands or areas of more than one ownership, require the operator when so requested by an owner, to deliver to such owner or his assigns his proportionate share of the production from the well common to such drilling unit, but such owner receiving same shall provide at his own expense proper receptacles for the receipt or storage of such oil, gas or distillate.

(c) Should the persons owning the drilling or other rights in separate tracts embraced within a drilling unit fail to agree upon the integration of the tracts and the drilling of a well on the unit, and should it be established that the board is without authority to require integration as provided for in this section, then, subject to all other applicable provisions of this chapter, and of chapter 1 of this title, the owner of each tract embraced within the drilling unit may drill on his tract; but the allowable production from such tract shall be such proportion of the allowable production for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

(d) The state oil and gas board in order to prevent waste and avoid the drilling of unnecessary wells may permit (1) the cycling of gas in any pool or portion thereof or (2) the introduction of gas or other substance into an oil or gas reservoir for the purpose of repressuring such reservoir, maintaining pressure or carrying on secondary recovery operations. The board shall permit the pooling or integration of separate tracts when reasonably necessary in connection with such operations.

(e) Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among
owners or operators, or both, owning separate holdings in the same field or pool, or in any area that appears from geologic or other data to be underlaid by a common accumulation of oil or gas, or both, and agreements between and among such owners or operators, or both, and royalty owners therein, for the purpose of bringing about the development and operation of the field, pool or area, or any part thereof, as a unit, and for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the board, are hereby authorized and shall not be held or construed to violate any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade.

SOURCES: Codes, 1942, § 6132-22; Laws, 1948, ch. 256, § 10; 1950, ch. 230, § 3.

§ 53-3-9. Allowable production; meters.

(a) Whenever the state oil and gas board has fixed for the purpose of preventing waste, as defined in section 53-1-3, the total amount of oil or gas which may be produced in any pool in this state at an amount less than that amount which the pool can produce, the board shall allocate or apportion the allowable production among the producers in the pool on a reasonable basis so as to prevent reasonably avoidable drainage from each developed unit which is not equalized by counter-drainage, and so that each producer will have the opportunity to produce or receive his just and equitable share, as above set forth.

(b) After the effective date of any rule, regulation, or order of the state oil and gas board fixing the allowable production of oil or gas, or both, for any pool, no person shall produce from any well, lease, or property more than the allowable production which is applicable; nor shall such amount be produced in a different manner than that which may be authorized.

(c) The state oil and gas board shall require interested persons, firms, or corporations to place uniform meters of a type approved by the board wherever the board may designate on all pipe lines, flow lines, gathering systems, barge terminals, loading racks, refineries, or other places deemed necessary or proper to prevent waste and the transportation of illegally produced oil or gas; such meters at all times shall be under the supervision and control of the board, and it shall be a violation of sections 53-1-1 to 53-1-47, inclusive, and sections 53-3-1 to 53-3-21, inclusive, for any person, firm or corporation to refuse to attach or install such meter when ordered to do so by the board.

SOURCES: Codes, 1942, § 6132-23; Laws, 1948, ch. 256, § 11.

Cross references—
As to exemption of petroleum products meters under supervision of state oil and gas board from the Weights and Measures Law, see § 75-27-3.

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§ 53-3-11. Notice of drilling of wells; permit.

Any person desiring or proposing to drill any well in search of oil or gas, before commencing the drilling of any such well shall notify the oil and gas supervisor upon such form as the board may prescribe. The drilling of any well for oil or gas is hereby prohibited until such notice is given and a permit therefor is issued. Furthermore, the drilling of any well, which is not in accordance with a spacing pattern fixed by the board, is hereby prohibited until and unless a permit is issued by the board after notice and hearing.

SOURCES: Codes, 1942, § 6132-29; Laws, 1948, ch. 256, § 16.

§ 53-3-13. Permit fee; disposition of fees.

(1) Any person securing a permit to drill a well in search of oil or gas under the provisions of section 53-3-11, shall pay to the oil and gas supervisor a fee of two hundred dollars ($200.00) upon and for the issuance of such permit. A lesser sum may be paid if the state oil and gas board shall adopt a rule fixing the amount to be paid at a sum less than two hundred dollars ($200.00). Any such permit, when issued and the fee paid thereon, shall be good for a period of six months from the date thereof; and in the event drilling has commenced within the said six months, the permit shall be good for the life of the well so commenced, unless during the course of drilling or production the operator is changed. In the event a change of operators from that listed in the drilling permit is desired, the operator so listed and the proposed new operator shall apply to the state oil and gas board for authority to change operators on forms to be prescribed by order of the state oil and gas board. The fee for such change of operators shall be fifty dollars ($50.00) per change, or some lesser sum as may be fixed by order of the board.

(2) The state oil and gas supervisor, as ex officio secretary of the state oil and gas board, shall remit to the state treasurer all monies collected by reason of the assessments made, fixed and authorized under the provisions of the first paragraph of this section, and the state treasurer shall deposit all such monies in a special fund known as the "oil and gas conservation fund."

SOURCES: Codes, 1942, § 6132-30; Laws, 1948, ch. 319, §§ 1, 2; 1966, ch. 280, § 1, eff from and after July 1, 1966.

Cross references—
As to oil and gas conservation fund, see § 53-1-77.
As to duties of state treasurer generally, see § 7-9-9.
As to duty of state officers to pay into state treasury twice monthly all funds collected or received, see § 7-9-21.
§ 53-3-15. Certificate of compliance required before connection with pipe lines; cancellation.

Owners or operators of oil or gas wells shall, before connecting with any oil or gas pipe line, secure from the state oil and gas board a certificate showing compliance with the conservation laws of the state and conservation rules, regulations and orders of the board. No operator of a pipe line shall connect with any well until the owner or operator of such well shall furnish a certificate from the board that such conservation laws and such rules, regulations and orders have been complied with. This section shall not prevent a temporary connection of not more than seven days’ duration with any well in order to take care of production and prevent waste until opportunity shall have been given the owner or operator of such well to secure such certificate.

The state oil and gas board shall have the power to cancel any certificate of compliance issued under the provisions of this section when it appears, after due notice and hearing, that the owner or operator of a well covered by the provisions of same has violated or is violating, in connection with the operation of said well or the production of oil or gas therefrom, any of the oil or gas conservation laws of this state or any of the rules, regulations or orders of the board promulgated thereunder. Upon notice from the board to the operator of any pipe line connected to any such oil or gas well that the certificate of compliance with reference to such well has been cancelled by the board, the operator of such pipe line shall disconnect from such well and it shall be unlawful for the operator of such pipe line to transport oil or gas therefrom until a new certificate of compliance has been issued by the board. It shall be unlawful for the owner or operator of any well to produce oil or gas therefrom (except as to a temporary connection as hereinabove provided), unless there is in effect a certificate of compliance covering such well.

SOURCES: Codes, 1942, § 6132-31; Laws, 1948, ch. 256, § 17.

§ 53-3-17. Illegal transactions.

The sale, purchase, or acquisition, or the transportation, refining, processing, or handling in any other way of illegal oil, illegal gas, or illegal product is hereby prohibited.

Unless and until the state oil and gas board provides for certificates of clearance, or some other method, so that any person may have an opportunity to determine whether any contemplated transaction of sale, purchase, or acquisition, or of transportation, refining, processing, or handling in any other
way, involves illegal oil, illegal gas, or illegal product, no penalty shall be imposed for the sale, purchase or acquisition, or the transportation, refining, processing, or handling in any other way, of illegal oil, illegal gas, or illegal product, except under circumstances hereinafter stated. Penalties shall be imposed by the board for each transaction prohibited in this section when the person committing the same knows that illegal oil, illegal gas, or illegal product is involved in such transaction or when such person could have known or determined such fact by the exercise of reasonable diligence or from facts within his knowledge. However, regardless of lack of actual notice or knowledge, penalties as provided in section 53-1-47 shall apply to any sale, purchase, or acquisition, and to the transportation, refining, processing, or handling in any other way, without a certificate of clearance, of illegal oil, illegal gas, or illegal product, whose administrative provision is made for identifying the character of the commodity as to its legality. It shall likewise be a violation for which penalties shall be imposed for any person to sell, purchase, or acquire, or to transport, refine, process, or handle in any other way any oil, gas or any product without complying with any rule, regulation, or order of the board relating thereto.

SOURCES: Codes, 1942, § 6132-32; Laws, 1948, ch. 256, § 18.

§ 53-3-19. Procedure for seizure and sale of illegal gas and oil as contraband.

Apart from, and in addition to, any other remedy or procedure which may be available to the state oil and gas board, or any penalty which may be sought against or imposed upon any person with respect to violations relating to illegal oil, illegal gas, or illegal product, all illegal oil, illegal gas and illegal product shall, except under such circumstances as are stated herein, be contraband and shall be seized and sold, and the proceeds applied as herein provided. Such sale shall not take place unless the court shall find, in the proceeding provided for in this paragraph, that the commodity involved is contraband. Whenever the board believes that illegal oil, illegal gas or illegal product is subject to seizure and sale, as provided herein, it shall, through the attorney general, bring a civil action in rem for that purpose in the circuit court of the county where the commodity is found, or the action may be maintained in connection with any suit or cross-action for injunction or for penalty relating to any prohibited transaction involving such illegal oil, illegal gas or illegal product. Any interested person who may show himself to be adversely affected by any such seizure and sale shall have the right to intervene in such suit to protect his rights.
The action referred to above shall be strictly in rem and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas or illegal product mentioned in the complaint, as defendant, and no bond or bonds shall be required of the plaintiff in connection therewith. Upon the filing of the complaint, the clerk of the court shall issue a summons directed to the sheriff of the county, or to such officer or person as the court may authorize to serve process, requiring him to summon any and all persons (without undertaking to name them) who may be interested in the illegal oil, illegal gas, or illegal product mentioned in the complaint to appear and answer within thirty days after the issuance and service of such summons. The summons shall contain the style and number of the suit and a very brief statement of the nature of the cause of action. It shall be served by posting one copy thereof at the courthouse door of the county where the commodity involved in the suit is alleged to be located and by posting another copy thereof near the place where the commodity is alleged to be located. Copy of such summons shall be posted at least five days before the return day stated therein, and the posting of such copy shall constitute constructive possession of such commodity by the state. A copy of the summons shall also be published once each week for three weeks in some newspaper published in the county where the suit is pending or having a bona fide circulation therein. No judgment shall be pronounced by any court condemning such commodity as contraband until after the lapse of five days from the last publication of said summons. Proof of service of said summons, and the manner thereof, shall be as provided by general law.

Where it appears by a verified pleading on the part of the plaintiff, or by affidavit, or affidavits, that grounds for the seizure and sale exist, the clerk, in addition to the summons, shall issue an order of seizure, which shall be signed by the clerk and bear the seal of the court. Such order of seizure shall specifically describe the illegal oil, illegal gas, or illegal product, so that the same may be identified with reasonable certainty. It shall direct the sheriff to whom it is addressed to take into his custody, actual or constructive, the illegal oil, illegal gas or illegal product, described therein, and to hold the same subject to the orders of the court. Said order of seizure shall be executed as a writ of attachment is executed. No bond shall be required before the issuance of such order of seizure, and the sheriff shall be responsible upon his official bond for the proper execution thereof. For his service hereunder, the sheriff shall receive a fee as in like cases of seizure of personal property and to be assessed as other cost in the cause.
Sales of illegal oil, illegal gas or illegal product, seized under the authority of this section, and notice of such sales, shall be in accordance with the laws of this state relating to the sale of personal property under execution. For his services hereunder the sheriff shall receive a fee and expenses in like sales of personal property to be paid out of the proceeds of the sale or sales to be fixed by the court ordering such sale.

The court may order that the commodity be sold in specified lots or portions, and at specified intervals, instead of being sold at one time. Title to the amount sold shall pass as of the date of the act which is found by the court to make the commodity contraband. The judgment shall provide for payment of the proceeds of the sale into the state oil and gas fund, after first deducting the costs in connection with the proceedings and sale, and after paying to any royalty owner intervening as an interested party in the suit, the value of his interest in the said oil or gas, provided he has established his title to the said oil or gas royalty interest. The amount sold shall be treated as legal oil, legal gas or legal product, as the case may be, in the hands of the purchaser, but the purchaser and the commodity shall be subject to all applicable laws, and rules, regulations and orders with respect to further sale or purchase or acquisition, and with respect to the transportation, refining, processing, or handling in any other way, of the commodity purchased.

The producer, owner, or any other party contesting the validity of any such seizure and having an interest in securing the release of the seized oil, gas or other product, may obtain the release thereof upon furnishing a bond issued by a corporate surety company, duly qualified to do business in the state in an amount double the current market value of the oil, gas or other product held under seizure, which bond shall be conditioned and approved in the same manner as a replevin bond.

Nothing in this section shall deny or abridge any cause of action a royalty owner, or a lien holder, or any other claimant, may have, because of the forfeiture of the illegal oil, illegal gas, or illegal product, against the person whose act resulted in such forfeiture. All oil, gas or other illegal product sold as provided in this section shall be sold in like cases of personal property sold under execution.

SOURCES: Codes, 1942, § 6132-33; Laws, 1948, ch. 256, § 19.

Cross references—
As to sheriffs’ fees generally, see § 25-7-19.
As to sales of personal property under execution generally, see §§ 13-3-161, 13-3-165, 13-3-169.
As to defendant’s replevin bond, see § 11-37-19.
As to plaintiff’s replevin bond, see § 11-37-25.
§ 53-3-21. Penalties for violations of §§ 53-3-3 to 53-3-19.

Any person who violates any of the provisions of sections 53-3-3 to 53-3-19, inclusive, or any rule, regulation or order made thereunder, shall be subject to the penalties and punishment set forth in section 53-1-47.

§ 53-3-23. Flexible oil or gas drilling units.

(1) Whenever a drilling unit for oil or gas is formed comprised entirely of lands within the State of Mississippi, with one or more unit boundaries being the center of the main navigable channel of the Mississippi River or any other navigable river constituting the boundary between the State of Mississippi and another state, such unit shall be a flexible unit. The size and shape of such unit shall change as the boundary line between the states changes.

(2) Subsequent changes in the acreage content of such unit occasioned by the shifting of the state boundary line shall not occasion a reduction in the allowable acreage allocated to such unit.

(3) This section shall cover and include oil and gas units which have been heretofore formed or which may be hereafter formed.


Cross references—
For a definition of term “Navigable Waters”, see § 1-3-31.

CO-OPERATIVE DEVELOPMENT AND OPERATION UNDER LEASES

§ 53-3-51. Agreements for co-operative development and operation under leases by public officers.

(1) The state mineral lease commission, the county boards of supervisors, the mayors and boards of aldermen, the mayor and councilmen, the trustees of agricultural high schools and junior colleges, the trustees of any common school districts, consolidated school districts, special consolidated school districts and separate school districts, and all other state boards, state officers, state agents, and the boards and officers of all political subdivisions of the State of Mississippi, who manage and control mineral and royalty interests, and are authorized by law to execute oil, gas or mineral leases thereon, are hereby authorized and empowered to execute, on behalf of the state or of such political, municipal, or other subdivision or agency thereof, agreements covering any lease or leases now in effect or which
may hereafter be granted, and the mineral and royalty interests thereunder, for establishing and carrying out the co-operative development and operation of common accumulations of oil and gas, or both, in all or any portion of a field or area which appears from geological or other data to contain such common accumulations of oil or gas, or both, including the right and power to pool, consolidate and unitize the land covered by any lease or leases, now in effect or which may hereafter be granted, in its entirety or as to any stratum or strata or any portion or portions thereof, with other lands and leases in the immediate vicinity thereof, for the purpose of joint development and operation of the entire consolidated premises as a unit. Such agreements include, but are not limited to, all types of secondary recovery methods and operations, and operations known as cycling, recycling, pressure maintenance, repressuring, and water flooding, and the storage, processing and marketing of gas and all by-products of such operations.

(2) When any mineral or royalty interest belonging to the state, or to any political subdivision or agency thereof, is included within the provisions of such unitization or other agreement, as authorized in subsection 1 hereof, the oil, gas and mineral lease on such interest shall be considered to be amended thereby to conform to such agreement, and such lease shall not terminate as long as the agreement continues in force. No such agreement shall provide for the payment of royalty on any basis which is less favorable to the state, or any such subdivision thereof, than the basis on which royalty is computed to other royalty owners.

(3) The agreements herein authorized as to field-wide unitization shall not become effective until approved by the state oil and gas board by an order duly entered on the minutes of said board, and when so approved shall become fully valid and binding.

(4) The provisions of this section shall be cumulative of other existing laws not in conflict herewith.

SOURCE: Codes, 1942, § 6132-51; Laws, 1950, ch. 209, §§ 1-5.

Cross references—
As to leases of state-owned lands for oil, gas, and minerals, see § 29-7-3.
As to leases of county and municipal lands and minerals for oils, gas, and mineral exploration and development, see §§ 17-9-1 et seq.
As to counties conveying land for state park purposes leasing retained mineral interests, see § 19-7-21.
As to leases of agricultural high school lands for oil, gas, and minerals, see § 37-27-29.
As to leases of school district lands for oil, gas, and mineral exploration and development, see § 37-7-305.

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FACILITIES FOR EXPLORATION, PRODUCTION, OR TRANSPORTATION OF OIL OR GAS IN NAVIGABLE WATERS

§ 53-3-71. Construction and operation of facilities for exploration, production, or transportation of oil or gas in navigable waters.

Any person, firm or corporation duly authorized to engage in the exploration or production of oil, gas or other minerals under the provisions of Chapter 7, Title 29, Mississippi Code of 1972, and any person, firm or corporation duly authorized to engage in the transportation of oil, gas and other minerals under the provisions of sections 29-1-101 to 29-1-105, Mississippi Code of 1972, shall have the right to construct, operate and maintain facilities incident to such operations in any of the navigable waters of the state upon obtaining a permit from the state oil and gas board.

SOURCES: Codes, 1942, § 6132-61; Laws, 1968, ch. 262, § 1, eff from and after September 1, 1968.

Cross references—
For a definition of the term “navigable waters”, see § 1-3-31.

§ 53-3-73. Fee for permit.

Any person, firm or corporation applying for a permit to construct a facility under sections 53-3-71 to 53-3-75 shall pay to the state oil and gas supervisor a fee of five hundred dollars ($500.00).

SOURCES: Codes, 1942, § 6132-62; Laws, 1968, ch. 262, § 2, eff from and after September 1, 1968.

§ 53-3-75. Restrictions and prohibitions.

The right to construct, operate and maintain any facility as described in section 53-3-71 in, on, under or across land which is submerged or wherever the tide may ebb and flow shall be subject to the following:

(a) The paramount right of the United States to control commerce and navigation;

(b) The right of the public to make free use of the waters; and

(c) The restrictions and prohibitions contained in Section 81 of the Mississippi Constitution of 1890, as same may be amended.

SOURCES: Codes, 1942, § 6132-63; Laws, 1968, ch. 262, § 3, eff from and after September 1, 1968.

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§ 53-3-101. Applications.

The state oil and gas board upon the application of any interested person shall, after notice as herein provided, hold a hearing to consider the need for the operation as a unit of an entire field, or of an entire pool or pools, or of any portion or portions or combinations thereof, within a field, for the production of oil or gas or both, in order to increase the ultimate recovery thereof or to prevent waste. The board may reopen the hearing provided in this section at any time prior to the final order adjudicating that the requirements of section 53-3-107 have been satisfied.

SOURCES: Laws, 1972, ch. 365, § 1, eff from and after passage (approved April 21, 1972).

§ 53-3-103. Oil and gas board may order unit operation.

The state oil and gas board may issue an order requiring such unit operation, if it finds that:

(a) Unit operation of the field or of any pool or pools, or of any portion or portions or combinations thereof within the field, is reasonably necessary in order to effectively carry on secondary recovery, pressure maintenance, represuring operations, cycling operations, water flooding operations, or any combination thereof, or any other form of joint effort calculated to substantially increase the ultimate recovery of oil or gas or both, from the unit so formed, or to prevent waste as defined in section 53-1-3; and

(b) One or more method of unitized operation as applied to such common source of supply or portion thereof is feasible and will prevent waste or will with reasonable probability result in the recovery of substantially more oil or gas, or both, from the unit so formed than would otherwise be recovered; and

(c) The plan of unitization and the agreements effectuating same are fair and reasonable under all of the circumstances and protect the rights of all interested parties; and

(d) The correlative rights of interested parties will be protected; and

(e) The estimated additional cost incident to conducting such operation will not exceed the value of the estimated additional
recovery of oil and gas and such cost of unit operation shall not be borne by the royalty owners.

The operators of such unit shall have drilled a sufficient number of wells to a sufficient depth and at such locations as may be necessary for the board to approve the boundaries of the unit and determine that the field, pool or pools have been reasonably developed according to a spacing pattern approved by the board. No field unitization shall be approved by the board until each drilling unit of the field has been drilled; however, the board is hereby authorized to waive the requirement that each and every drilling unit be drilled upon a finding of fact that it is not economically feasible for a specific drilling unit to be drilled.

SOURCES: Laws, 1972, ch. 365, § 2, eff from and after passage (approved April 24, 1972)

§ 53-3-105. Provisions and requirements of board's order.

The order issued by the state oil and gas board shall be fair and reasonable under all of the circumstances and shall protect the rights of interested parties and shall include:

(a) A description of the geographical area and a description of the pool or pools, or of any portion or portions or combinations thereof affected which together constitute and are herein termed the "unit area."

(b) A statement of the nature of the operations contemplated.

(c) A formula for the allocation among the separately owned tracts in the unit area of all the oil or gas, or both, produced and saved from the unit area, and not required in the conduct of such operation, which formula must expressly be found reasonably to permit persons otherwise entitled to share in or benefit by the production from such separately owned tracts to receive, in lieu thereof, their fair, equitable and reasonable share of the unit production or other benefits thereof. A separately owned tract's fair, equitable and reasonable share of the unit production shall be that proportionate part of unit production that the contributing value of such tract for oil and gas purposes in the unit area and its contributing value to the unit bears to the total of all like values of all tracts in the unit, taking into account all pertinent engineering, geological and operating factors that are reasonably susceptible of determination.

(d) A provision for adjustment among the owners of the unit area (not including royalty owners) of their respective investment
in wells, tanks, pumps, machinery, materials, equipment and other things and services of value attributable to the unit operations. The amount to be charged unit operations for any such item shall be determined by the owners of the unit area (not including royalty owners), but if said owners of the unit area are unable to agree upon the amount of such charges, or to agree upon the correctness thereof, the board shall determine them after due notice and hearing thereon, upon the application of any interested party. The amount charged against the owner of a separately owned tract shall be considered expense of unit operation chargeable against such tract. The adjustments provided for herein may be treated separately and handled by agreements separate from the unitization agreement. The expense of dry holes drilled within the unit area prior to the effective date of an order of the board, as determined by section 53-3-107, shall not be chargeable as investment under subsection (c) of section 53-3-109, unless such dry hole is used in the unit operation, in which event its value to the unit shall be charged as investment.

(e) A provision that the costs and expenses of unit operation, including investment past and prospective, shall be borne by the owner or owners (not entitled to share in production free of operating costs and who in the absence of unit operation would be responsible for the expenses of developing and operating) of each tract in the same proportion that such tracts share in unit production. Each owner's interest in the unit area shall be responsible for his proportionate share thereof, and the unit operator shall have a lien thereon to secure payment of such share. When any owner fails to pay his part thereof when due and interest thereon at the legal rate, then all of such owner’s interest in the unit production and equipment may be foreclosed in the same manner and under the same procedures provided for the foreclosure of mortgages in chancery court.

A transfer or conversion of any owner's interest or any portion thereof, however accomplished after the effective date of the order creating the unit, shall not relieve the transferred interest of said operator’s lien on said interest for the cost and expense of unit operations, past or prospective.

(f) The designation of, or a provision for the selection of a successor to the unit operator. The conduct of all unit operations by the unit operator, and the selection of a successor to the unit operator, shall be governed by the terms and provisions of the unitization agreements.
(g) The time the unit operation shall become effective and the manner in which, and the circumstances under which, the unit operation shall terminate.

(h) A requirement that all oil and/or gas contained in a unit area shall be produced and sold as rapidly as possible without decreasing the ultimate recovery of such oil and/or gas or causing damage to the reservoir.

SOURCES: Laws, 1972, ch. 365, § 3, eff from and after passage (approved April 24, 1972).

§ 53-3-107. When order becomes effective.

An order requiring unit operations shall not be effective unless and until the plan of unitization and the agreements incorporating the provisions of section 53-3-105 have been signed or, in writing, ratified, adopted or approved by the owners or lessees of at least eighty-five per cent (85%) in interest on the basis of and in proportion to the surface acreage content of the unit area under the terms of the order and the agreement incorporating the provisions of section 53-3-105 has been signed or, in writing, ratified, adopted or approved by at least eighty-five per cent (85%) (exclusive of royalty interests owned by lessees or by subsidiaries or successors in title of any lessee) in interest of the royalty owners on the basis of and in proportion to the surface acreage content of the unit area and the board has made a finding to that effect, either in the order or in a supplemental order. In the event the required percentages have not signed, ratified or approved the respective agreements within twelve months from and after the date of such order, it shall be automatically revoked.


§ 53-3-109. Amendments of orders; extension of units and inclusion of additional pools.

(a) The state oil and gas board, after notice and hearing, by entry of new or amending orders, may from time to time enlarge the unit area by approving agreements adding to the unit operation a pool or pools or any portion or portions or combinations thereof not theretofore included, and extensions of existing pools. Any such agreement, in providing for allocation of production from the unit area, shall first allocate to each pool or portion thereof so added a portion of the total production of oil or gas, or both, from all pools affected within the unit area, as
enlarged, such allocation to be based on the relative contribution which such added pool or portion or extensions thereof are expected to make, during the remaining course of unit operations, to the total production of oil or gas, or both, to the unit as enlarged. The production so allocated to each added pool or portion thereof shall be allocated to the separately owned tracts in the added unit area on the basis of the relative contribution of each such tract, as provided in paragraph (c) of section 53-3-105. The remaining portion of unit production shall be allocated among the separately owned tracts within the previously established unit area in the manner provided by the unitization agreement. Orders promulgated under this paragraph shall become operative at 7:00 a.m. on the first day of the month next following the day on which the order becomes effective under the provisions of paragraph (b) of this section.

(b) An order promulgated by the board under paragraph (a) of this section shall not become effective unless and until (1) all of the terms and provisions of the plan of unitization and the unitization agreement relating to the extension or enlargement of the unit area or to the addition of a pool or portions thereof or extensions of existing pools to unit operations have been fulfilled and satisfied and evidence thereof has been submitted to the board, and (2) the extension or addition effected by such order has been agreed to in writing by the owners or lessees of at least eighty-five per cent (85%) in interest on the basis of and in proportion to the surface acreage content of the area or pools or portions thereof or extensions of existing pools to be added to the unit operation by such order and also by at least eighty-five per cent (85%) (exclusive of royalty interests owned by lessees or by subsidiaries or successors in title of any lessee) in interest of the royalty owners on the basis of and in proportion to the surface acreage content in the area or pools or portions thereof or extensions of existing pools to be added to the unit operation by such order, and evidence thereof has been submitted to the board, and (3) the owners of the existing unit have agreed in the manner provided in section 53-3-107 or in accordance with the terms of the unitization agreement, to the extension or addition. In the event all of the above requirements are not fulfilled within twelve months from and after the date of such order, it shall be automatically revoked.

(c) After the operative date of an order promulgated under this section, costs and expenses of operation of the unit, as enlarged, shall be governed by paragraph (e) of section 53-3-105. Adjustment among the owners of the unit area, as enlarged, (not including royalty owners) of their respective investments in
wells, tanks, pumps, machinery, materials, equipment, and other things and services of value attributable to the operation of the unit area, as enlarged, shall be governed by paragraph (d) of section 53-3-105.


§ 53-3-111. How production allocated.

The portion of unit production allocated to a separately owned tract within the unit area shall be deemed, for all purposes, to have been actually produced from such tract, and operations with respect to any tract within the unit area shall be deemed for all purposes to be the conduct of operations for the production of oil or gas, or both, from each separately owned tract in the unit area. However, when an oil, gas and mineral lease contains land partially within and partially without said unit area, the unit agreement and production from the unit shall have no force and effect on lands lying outside of such unit area and failure of the lessee or lessees thereof to drill and develop such lands lying outside said unit area within one (1) year or during the term of the lease, whichever is a longer period of time, from the date of determination of the unit area by the state oil and gas board shall render such lease or leases on lands lying outside said unit area void and of no force and effect, unless otherwise held by production other than from unit production.

SOURCES: Laws, 1972, ch. 365, § 4, eff from and after passage (approved April 24, 1972).

§ 53-3-113. Authority of unit operator; production by others prohibited.

From and after the effective date of an order of the board entered under the provisions of sections 53-3-101 to 53-3-119, the operation of any well producing from the unit area defined in the order by persons other than the unit operator or persons acting under the unit operator’s authority, or except in the manner and to the extent provided in such plan of unitization, shall be unlawful and is hereby prohibited.


§ 53-3-115. Time and manner of giving notice.

The notice provided for in sections 53-3-101 to 53-3-119 shall be given in the time and manner as required by law and the rules
and regulations of the oil and gas board for hearings by said board and shall be completed at least thirty days before the date set for the hearing.

The secretary of the board shall, in addition thereto, mail a notice not less than thirty days prior to the date set for the hearing to all persons owning the interests in the land within the unit area which said secretary by due diligence can ascertain. The failure of said secretary, however, to mail said notice to any such owner shall not affect the validity of any hearing held pursuant to the notice published in accordance with the preceding paragraph, or any rule, regulation, or order issued pursuant to such hearing.


Cross references--
As to public hearings of state oil and gas board, see § 53-1-21.
As to appeals generally to circuit court from final rules, regulations or orders of state oil and gas board, see § 53-1-39.

§ 53-3-117. Administration of § 53-3-101 to 53-3-119.

In administering sections 53-3-101 to 53-3-119, the oil and gas board shall be governed and controlled by the declaration of policy set out in sections 53-1-1 et seq., and except as otherwise herein expressly provided, all proceedings held under sections 53-3-101 to 53-3-119, including the filing of petitions, the giving of notices, the conduct of hearings and the entry of orders and appeals therefrom, shall be governed and controlled by the procedure provided for by sections 53-1-1 to 53-1-47, inclusive, and sections 53-3-1 to 53-3-21, inclusive, and the rules and regulations promulgated by the oil and gas board pursuant to said sections. The definition of the terms used in sections 53-3-101 to 53-3-119 shall be controlled by definitions contained in 53-1-3, and the rules and regulations promulgated by the oil and gas board pursuant to sections 53-1-1 to 53-1-47, inclusive, and sections 53-3-1 to 53-3-21, inclusive, unless a definition appearing in section 53-1-3 is entirely inconsistent with the meaning and purpose of the term as used in sections 53-3-101 to 53-3-119, in which event such term shall be given that meaning that is harmonious with and tends to effectuate the purposes of sections 53-3-101 to 53-3-119.

§ 53-3-119. Court review of order of oil and gas board by appeal to the chancery court.

Any interested person adversely affected by any provision of sections 53-3-101 to 53-3-119 or by any rule, regulation or order made by the state oil and gas board thereunder, or by any act done or threatened thereunder, may obtain court review and seek relief by appeal, which appeal shall be to the chancery court of the county wherein the land involved, or any part thereof, is situated. The term “interested person” as used herein shall be interpreted broadly and liberally and shall include all mineral and royalty owners. Any interested party may appeal to the chancery court of the county wherein the land involved or any part thereof is situated, if appeal be demanded within thirty (30) days after rendition of the order of the board.

Such appeal may be taken by filing notice of the appeal with the state oil and gas board, whereupon the board shall, under its certificate, transmit to the court appealed to all documents and papers on file in the matter, together with a transcript of the record, which documents and papers together with said transcript of the record shall be transmitted to the clerk of the chancery court of the county to which the appeal is taken.

Except as hereinabove provided, such appeal shall be made in accordance with the provisions of sections 53-1-39 and 53-1-41.

SOURCES: Laws, 1972, ch. 365, § 5, eff from and after passage (approved April 24, 1972).

UNDERGROUND STORAGE OF NATURAL GAS

§ 53-3-151. Definitions.

As used in sections 53-3-151 to 53-3-165: (a) “underground storage” shall mean storage in an underground reservoir, stratum or formation of the earth; (b) “natural gas” shall mean gas of sufficient purity to be capable of use for residential purposes; (c) “native gas” shall mean gas which previously has not been withdrawn from the earth, or which, having been withdrawn, is injected into a reservoir for purposes other than underground storage; and (d) “state oil and gas board” or “board” shall mean the state oil and gas board of Mississippi.

SOURCES: Codes, 1942, § 6132-131; Laws, 1971, ch. 436, § 1, eff from and after passage (approved March 24, 1971).

Editor’s Note—
Section 8 of Laws, 1971, ch. 436, provides as follows:

SECTION 8. A county having two (2) judicial districts and being intersected by U. S. Highway 84 and Interstate 59 is hereby excluded from the provisions of this act.

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§ 53-3-153. Legislative declaration.

The underground storage of natural gas which promotes the conservation thereof, which permits the building of large quantities of natural gas in reserve for orderly withdrawal in periods of peak demand, making natural gas more readily available to the consumer, or which provides more uniform withdrawal from various gas or oil fields, is in the public interest and welfare of this state and is for a public purpose.


§ 53-3-155. Underground storage authorized pursuant to board’s order.

The use of an underground reservoir, stratum or formation as a reservoir for the storage of natural gas as an appliance or appurtenance in connection with the conveying, transmission or distribution of natural gas is hereby authorized, provided that the state oil and gas board shall first enter an order, after notice and hearing pursuant to the provisions of sections 53-1-19 to 53-1-31, inclusive, approving any such proposed underground storage of gas upon finding as follows:

(a) That the underground stratum or formation sought to be used as a reservoir for the injection, storage and withdrawal of natural gas is suitable and feasible for such use and in the public interest, and is not an oil reservoir capable of commercial production;

(b) That a majority interest of all rights of the surface interest and a majority interest of all interests in the underground stratum or formation have consented to such use in writing;

(c) That the use of the underground stratum as a reservoir for the storage of natural gas will not contaminate other formations containing fresh water, oil, gas or other commercial mineral deposits; and

(d) That the proposed storage will not endanger lives or property.

SOURCES: Codes, 1942, § 6132-133; Laws, 1971, ch. 436, § 3, eff from and after passage (approved March 24, 1971).

§ 53-3-157. Protection against pollution and escape of natural gas; property rights.

The state oil and gas board shall issue such orders, rules and regulations as may be necessary for the purpose of protecting any
such underground storage reservoir, stratum or formation against pollution or against the escape of natural gas therefrom, including such necessary rules and regulations as may pertain to the drilling into or through such underground storage reservoir, stratum or formation.

All natural gas which has previously been reduced to possession, and which is subsequently injected into an underground storage reservoir, stratum or formation shall at all times be deemed the property of the injector, his successors and assigns, and in no event shall such gas be subject to the right of the owner of the surface of the lands or of any mineral interest therein under which such underground storage reservoir, stratum or formation shall lie or be adjacent to or of any person other than the injector, his successors and assigns, to produce, take, reduce to possession, waste or otherwise interfere with or exercise any control thereover; provided, that the state oil and gas board shall have entered an order, either before or after the enactment hereof, approving such underground storage reservoir, stratum or formation.


§ 53-3-159. Right of eminent domain.

Any company, person or association of persons, municipality, association of municipalities, public utility district, or natural gas district, incorporated or organized for the purpose of building or constructing pipelines and appliances for the conveying and distribution of oil or gas and authorized by law in section 11-27-49, Mississippi Code of 1972, to exercise eminent domain rights with respect thereto, is hereby empowered, after obtaining approval of the state oil and gas board as herein required, to exercise the right of eminent domain, in the manner provided by law, to acquire all surface and subsurface rights necessary and useful for the purpose of storing gas in any underground reservoir, stratum or formation, pursuant to the provisions hereof. Such power shall be exercised under the procedure provided by Chapter 27, Title II, Mississippi Code of 1972, provided that:

(a) No gas-bearing sand, stratum or formation shall be subject to appropriation by eminent domain unless the condemnor shall show, to the satisfaction of the board, that such sand, stratum or formation has a greater value or utility as a gas storage reservoir for the purpose of insuring an adequate supply of natural gas for consumers, or for the conservation of natural
gas, than for the production of the native gas which remains therein;

(b) Adequate and fair compensation for any native gas which is appropriated by eminent domain and which is otherwise capable of being commercially produced shall be included in that hereinabove provided for; and

(c) No rights or interests in underground reservoirs, strata or formations acquired for the injection, storage and withdrawal of natural gas by a party who has eminent domain rights under section 11-27-49, Mississippi Code of 1972, and who has obtained an order from the oil and gas board under the provisions of section 53-3-155, shall be subject to appropriation hereunder.


§ 53-3-161. Right of landowner to drill and make other use of land.

The right of condemnation granted by section 53-3-159, shall be without prejudice to the right of the owner of said land or of other rights or interests therein to drill or bore through the underground reservoir, stratum or formation so appropriated in such manner as shall comply with orders, rules and regulations of the state oil and gas board issued for the purpose of protecting underground storage reservoirs, strata or formations against pollution and against the escape of natural gas therefrom, and shall be without prejudice to the rights of the owners of said lands or other rights or interests therein as to all other uses thereof.


§ 53-3-163. Action for provable damages.

If any property owner whose interest has been acquired under the provisions of sections 53-3-151 to 53-3-165, either through negotiation or through eminent domain proceedings, shall file a legal action for provable damages as a result of alleged negligent use of the property acquired by the condemnor, the proof of said damages shall constitute a prima facie case of negligence on the part of the condemnor.


§ 53-3-165. Storage in offshore waters prohibited.

No provisions of sections 53-3-151 to 53-3-165 shall operate so as to authorize the establishment of underground storage of natural gas in the offshore waters of the State of Mississippi.

RULES OF ORDER AND PROCEDURE
FOR HEARINGS BEFORE BOARD
(Order No. 201-51)

1. All hearings before the Board shall be open to the public. Hearings shall be called by the Board for the purpose of taking any action in respect to any matter within its jurisdiction upon its own motion or upon the request or application of any interested party. Applications or requests for hearings (except as otherwise provided herein) shall be written and may be in the form of a letter, shall be brief and concise, shall state in general terms the matter upon which action of the board is desired, the interest of the applicant or person making the request, the relief sought, and the reasons therefor.

2. The Secretary of the Board shall maintain a Docket Book, and all application or requests for hearings and all hearings called on the motion of the Board shall be docketed and given a docket number, and a file carrying such number shall be opened by the Secretary of the Board. All applications for hearing, a copy of the notice of hearing, together with proof of its publication, the originals of all instruments, documents, plats and other data filed with the Board in connection with the hearing or the subject matter thereof, a transcript of all evidence taken at the hearing, the originals or copies of all correspondence with the Board concerning such hearing or the subject matter thereof shall be stamped with the docket number of the hearing and placed and kept in the file carrying such number. The Docket Book and all files pertaining to hearings shall be open to the public at all reasonable times but shall not be removed from the custody of the Board or its employees. Copies of all such instruments, documents, plats, other data, and correspondence shall be furnished to any interested party upon payment of the cost of making such copies. All notices of hearing shall refer to the docket number thereof. Copies of applications for hearing shall be furnished by the Secretary of the Board to any person upon request.

3. All hearings shall be held in Jackson, Mississippi, unless otherwise ordered by the Board.

4. Upon receipt of a proper request or application for hearing, the Board shall call a hearing within thirty (30) days, and after such hearing and with all convenient speed, and in any event within thirty (30) days after the conclusion of the hearing, shall take action with regard to the subject matter thereof.
5. Notice of all hearings of the Board shall be given by publishing notice thereof at least ten (10) days before the date of hearing in a newspaper published daily in Jackson, Mississippi, of general circulation in the state, and in a newspaper of general circulation in the county or counties in which the pools involved are located; provided that notice of a hearing on a statewide rule or order affecting all pools in the state shall be published twice in a newspaper published daily in Jackson, Mississippi, of general circulation in the state, the first publication appearing at least ten (10) days before the date of hearing, and the second publication appearing at least five (5) days before the hearing, and no other publication shall be necessary for such hearing.

The Secretary of the Board shall maintain a general mailing list and shall place thereon the names and addresses of all persons, firms, or corporations who make request in writing to be included on such list. Each person, firm and corporation on such mailing list shall be mailed at the address listed a copy of all notices and orders issued by the Board. The Secretary of the Board shall maintain a mailing list for each field in the state and shall place on each such list the names and addresses of all persons, firms or corporations who make request in writing to be included thereon. Each person included on the mailing list of any field shall be mailed at the address listed a copy of all notices and orders issued by the Board as to such field. The failure to mail a copy of a notice to any such person, firm or corporation shall not affect the validity of any hearing held pursuant to the notice published in accordance with the preceding paragraph or any rule, regulation or order issued pursuant to such hearing.

6. Notices of all hearings by the Board shall state the time and place of the hearing, the name of the party requesting the hearing, the nature thereof, the relief sought and the docket number of the same. All persons requesting a hearing shall prepare the notice therefor and submit the same to the Supervisor for his signature. It shall be the duty of the Supervisor to sign and return the notice to the person requesting said hearing and said person shall cause, at his or its expense, said notice to be published in the manner and for the length of time as prescribed by law and the rules and regulations of the Board. Upon the completion of the publication, the person requesting the hearing shall secure a legal proof of said publication and cause it to be filed with the Supervisor prior to the hearing.
Said notice may be in the following form:

PUBLIC NOTICE

To all owners and persons interested in the following described land: (Here describe land by legal description) take notice that (insert name of party or parties requesting hearing) has filed petition (or application) with the State Oil and Gas Board of Mississippi under Docket Number ________ requesting that (Here state nature of hearing. Example: The above described land be established by the Board as a gas drilling unit in SoSo Field; to approve a gas well location thereon and to unitize all royalty and mineral interest in said land).

That said matter will be heard by said Board at ________ o'clock ______ M. on the ______ day of ________ A.D., 19____ in the Second Floor Auditorium of the Woolfolk State Office Building, Jackson, Mississippi, at which time and place you may appear and contest said matter.

7. No notice by personal service shall be necessary except in those instances where same is required by the Board by special order entered on its minutes. If the Board should require notice by personal service, written notice may be issued by any member of the Board or by the State Oil and Gas Supervisor and service thereof shall be made in accordance with the provisions of Section 7, subsection (d) of H.B. 80, General Acts of the Regular Legislative Session, 1948.

8. After notice of a hearing is once given, the hearing may be continued to another day and from day to day by order of the Board entered on the day fixed for the hearing.

9. Emergency action may be taken by the Board without notice and hearing in the event the Board finds immediate action is necessary in order to prevent waste, to prevent irreparable injury or for some other cause, but each emergency rule, regulation and order shall provide that it will remain in force no longer than forty-five (45) days from its effective date. Immediately upon entering an emergency rule, regulation or order the Board shall call a hearing on the subject matter thereof, and such hearing shall be held prior to the expiration of the emergency rule, regulation or order.

10. All interested parties shall have the right to be heard at all hearings and to present witnesses and other evidence whether or not represented by legal counsel or technical assistance. The Board may require any protest made to be reduced to writing and filed with the Board.
11. In any proceeding before the Board subpoenas may be issued requiring the attendance of witnesses and the production of books, papers and records material to the matters lawfully before the Board at the designated place of hearing.

12. The hearings shall be opened with the reading of the notice or notices. The request for hearing, the notice or notices thereof and proof of the due publication of the notice or notices of the hearing shall be made a part of the record of the hearing.

13. (a) All witnesses shall be required to testify under oath, administered by a member of the Board or the Secretary thereof, to tell the truth, the whole truth and nothing but the truth, and all witnesses shall be subject to direct and cross-examination by any member of the Board or by any party or parties interested in the hearing or by their representatives.

(b) (As amended by Docket No. 191-61, Order No. 256-61, effective September 20, 1961)

(1) That where an application has been filed with the Board for authority to multiply complete or to tubingless complete an oil or gas well in connection with other surface or subsurface mechanical connections and installations and where legal notice of the hearing of said application has been given as required by law and the rules of the Board and where said application is not contested when called for hearing by the Board, then the Board may receive in evidence on said hearing sworn affidavits, exhibits, and duly executed Board forms as to the manner in which said multiple or tubingless completions are to be made, provided, however, that the Board has previously approved a similar completion for the field, pool or pools in question after a notice and hearing of witnesses in person.

(2) Where an application for a salt water disposal well and system has been filed with the Board and where legal notice has been given as required by law and the Board’s rules and where said application is not contested when called for hearing, then sworn affidavits, exhibits and Board forms may be received in evidence at the hearing as to the manner in which said salt water disposal well and system is to be completed and regardless of whether or not the Board has previously approved, after notice and hearing of witnesses, a similar application for the pool or field.

The sworn affidavits, exhibits and required Board forms are to be attached to the applications referred to in Sections 1 and 2 of this rule and made a part thereof by reference.
(3) That in all other non-contested matters or in contested matters where those parties who appear in person at the hearing agree thereto, sworn affidavits may be received in evidence. The Board reserves the right to reject any and all such affidavits and to require the affiant to appear in person.

(c) The materiality, relevancy and competency of any testimony shall be subject to challenge by any party to the hearing or by any member of the Board. When so interposed, such objections shall be acted upon by the Chairman or by the Acting Chairman, his ruling thereon being subject to change by a majority vote of the Board members then sitting.

(d) All persons presenting exhibits shall file a total of eight copies with the reporter. All suggested forms of order shall be presented in quadruplicate.

14. The Board shall from time to time by order entered on its minutes appoint a competent shorthand reporter. All hearings of the Board shall be recorded by a reporter appointed by the Board and sworn by the Board faithfully to discharge his duties in accordance with law and the direction of the Board. The reporter shall only transcribe those hearings wherein the Board orders same transcribed. When such order has been entered, said transcripts shall be available for inspection at the office of the Board in Jackson, Mississippi, and transcripts shall be available for purchase by interested parties from the reporter at rates prescribed for transcripts of evidence in circuit court proceedings in Mississippi, whether ordered transcribed by the Board or not.

15. Regular monthly meetings shall be held by the Board on the third Wednesday of each month. Where circumstances permit, the Board, after sounding the docket, shall first call up and dispose of all non-contested matters and motions for continuance.

16. These rules are in addition to and supplement the provisions of said House Bill No. 80 which may be applicable to hearings before the Board.

17. The Board may, from time to time, after notice and hearing, repeal, amend or supplement said rules of order and procedure.
STATEWIDE RULES AND REGULATIONS
(Order No. 201-51)

RULE 1. Scope of Rules
The rules and regulations hereby adopted and hereinafter set out are general rules of statewide application and shall apply to all fields; provided, however, special rules, applicable to particular areas or subject matter, shall prevail over these general rules only to the extent that they are in conflict therewith.

RULE 2. Definitions
Unless the context otherwise requires, the words hereinafter defined shall have the following meaning when found in these rules, to-wit:

(a) “Board” shall mean the State Oil & Gas Board created by Chapter 256 of the Laws of 1948.

(b) “Person” shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, representative of any kind, or any group acting as a unit, and the plural as well as the singular number.

(c) “Oil” shall mean crude petroleum oil and all other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas.

(d) “Gas” shall mean all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (c) above, or as condensate in subsection (f) below.

(e) “Casinghead Gas” shall mean any gas or vapor or both gas and vapor, indigenous to an oil pool and produced from such pool with oil.

(f) “Condensate” shall mean liquid hydrocarbons which, at the time of discovery, existed in the gaseous state in the reservoir.

(g) “Barrel of Oil” shall mean 42 United States gallons of oil, computed at 60 degrees Fahrenheit, with deductions for the full amount of basic sediment, water, and other impurities, present, ascertained by centrifugal or other recognized and customary test.

(h) For the purpose of reporting, a “Cubic Foot of Gas” shall mean volume of gas expressed in cubic feet and computed at a base pressure of ten (10) ounces per square inch above the average barometric pressure of 14.4 pounds per square inch (15.025 psia), at a standard base temperature of sixty (60) degrees Fahrenheit.
(i) "Gas Well" shall mean any well the production from which is predominantly gas or condensate, or both.

(ii) "Oil Well" shall mean any well capable of producing oil and which is not a gas well as defined herein.

(k) "Bottom Hole Pressure" shall mean the pressure in pounds per square inch at or near the face of the producing pool which is measured by means of a pressure recording instrument or any other scientific instrument, recognized by the oil and gas industry, with readings corrected to a predetermined datum plane.

(l) "Day" shall mean a period of twenty-four (24) consecutive hours from 7 A.M. one day to 7 A.M. the following day.

(m) "Month and Calendar Month" shall mean the period of interval of time from 7 A.M. on the first day of any month of the calendar to 7 A.M. of the first day of the next succeeding month of the calendar.

(n) "Pool" shall mean an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is included in the term "pool" as used herein.

(o) "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one pool; and "field" shall include the underground reservoir or reservoirs containing oil or gas or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools.

(p) "Owner" shall mean the person who has the right to drill into and produce from any pool, and to appropriate the production either for himself or for himself and another or others. "Royalty Owner" shall mean any person who possesses an interest in the production but who is not an "owner" as herein defined.

(q) "Producer" shall mean the owner of a well or wells capable of producing oil or gas or both.

(r) "Operator" shall mean any person who, duly authorized, is in charge of the development of a lease or the operation of a producing well.

(s) "Transporter" shall mean any person except a railroad company who transports oil or gas.

(t) "Pressure Maintenance" shall mean the introduction of gas or liquid for the purpose of maintaining the pressure of the reservoir.
(u) "Supervisor" shall mean the State Oil and Gas Supervisor of Mississippi.

(v) "Product" shall mean any commodity made from oil or gas and shall include refined crude oil, processed crude petroleum, residuum from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, casinghead gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil, condensate, gas or petroleum hydrocarbons, whether hereinabove enumerated or not.

(w) "Illegal Oil and Illegal Gas" shall mean oil or gas which has been produced within the State of Mississippi from any well during any time that the well has produced in excess of the amount allowed by law or any rule, regulation or order of the Board. "Illegal Product" shall mean any product derived, in whole or part, from illegal oil or illegal gas.

(x) "Waste" shall mean and include the following:

1. The inefficient, excessive, or improper use of dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner which results or tends to result in reducing the quantity of oil or gas ultimately to be recovered from any pool in this state.

2. The inefficient storing of oil; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of oil or gas.

3. Abuse of the correlative rights and opportunities of each owner of oil or gas in a pool due to non-uniform, disproportionate, or unratable withdrawals causing undue drainage between tracts of land or resulting in one or more owners in such pool producing more than his just and equitable share of the production from such pool.

4. Producing oil or gas in such manner as to cause unnecessary channeling of water or gas or both or coning of water.

5. The operation of any oil well or wells with an inefficient gas-oil ratio.
(6) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(7) The creation of unnecessary fire hazards.

(8) The escape into the open air, from a well producing both oil and gas, for gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

(9) Permitting gas produced from a gas well to escape into open air.

(10) The use of gas from gas wells, except sour gas, for the manufacture of carbon black, except and unless the Board shall find that there are no adequate pipeline connections to otherwise market the gas.

(y) "Drainage Unit" or "Drilling Unit" shall mean the maximum area in a pool which may be drained efficiently by one well so as to produce the reasonable maximum recoverable oil or gas in such area.

(z) "Developed Area" or "Developed Unit" shall mean a drainage unit having a well completed therein which is capable of producing oil or gas in paying quantities.

(aa) A "Certificate of Compliance" shall mean a certificate issued by the Board showing compliance with the conservation laws of the State, and conservation rules, regulations and orders of the Board, prior to connection with a pipe line.

(bb) A "Certificate of Clearance" shall mean a permit for the transportation or the delivery of oil, gas or products, approved and issued or registered under the authority of the Board.

(cc) "Driller's Log" shall mean the written record progressively describing the strata, water, oil or gas encountered in drilling a well.

(dd) "Wildcat Well" shall mean a drilling well in an unproven area.

(ee) "Stratum" shall mean a layer of rock more or less similar throughout, a lithological unit.

(ff) "Seismograph Shot Holes" shall mean those holes used in reflection and refraction seismic exploratory work only.

(gg) "Core Drilled Holes" shall mean those holes used only for sub-surface mapping of shallow formation marker horizons.
(hh) "Stratigraphic Tests" shall mean those holes drilled to secure information regarding sedimentary strata (including potential oil and gas reservoir rocks) and structural conditions.

RULE 3. Naming of Fields

The Board will name all oil and gas fields in the State. Unless good reasons to the contrary appears, the Board will accept the recommendation of names made by the Mississippi Geological Society.

RULE 4. Application to Drill (as amended by Docket No. 159-78, Order No. 233-78, effective June 21, 1978).

(a) Before any person shall commence the drilling of any well in search of oil or gas, such person shall file with the Board on Form 2 his application for a permit to drill, accompanied by a certified plat and by a fee of $200.00, payable to the State Oil and Gas Board. When two or more separately owned tracts of land are embraced within the unit for which the permit is sought, the application shall affirmatively state whether or not there are separately owned tracts in the drilling unit for which the permit is sought, and if so, whether or not the person owning the drilling rights therein and the rights to share in the production therefrom have agreed to develop their lands as a drilling unit and to the drilling of the well, as contemplated by Section 53-3-7, Mississippi Code of 1972. If drilling operations have not commenced within six (6) months after date of issuance, the permit shall become void. If the application complies in all respects with the rules and regulations of the Board relating thereto, a permit shall be issued promptly by the Supervisor. The issuance of said permit shall constitute the establishment of the drilling unit as designated in said application and shall likewise constitute the approval of the well location set out in said permit. On good cause shown, the unit may be altered by the Board after notice and hearing.

If the application for permit does not comply in all respects with the rules and regulations of the Board relating thereto, said application shall be disallowed, and the Supervisor shall promptly notify the applicant of the reason or reasons for said disallowance.

(b) Before any person shall commence the drilling of a stratigraphic test or any well below the fresh water level (other than an oil or gas well or a salt water disposal well), such person shall file with the Board on Form 2 his application for permit to drill, accompanied by a fee of $200.00, payable to the State Oil and
Gas Board. If the application complies in all respects with the rules and regulations of the Board relating thereto, a permit shall be issued promptly by the Supervisor.

If the application for permit does not comply in all respects with the rules and regulations of the Board relating thereto, said application shall be disallowed, and the Supervisor shall promptly notify the applicant of the reason or reasons for the disallowance.

(c) Before any person shall commence the drilling of a salt water disposal well, such person shall file with the Board on Form 2 his application for permit to drill, accompanied by a fee of $50.00, payable to the State Oil and Gas Board. If the application complies in all respects with the rules and regulations of the Board relating thereto, a permit shall be issued by the Supervisor upon approval by the State Oil and Gas Board, after notice and hearing.

(d) Before any person shall commence operations to rework an abandoned well to a salt water disposal well, such person shall file with the Board on Form 2 his application to rework, accompanied by a fee of $25.00, payable to the State Oil and Gas Board. If the application complies in all respects with the rules and regulations of the Board relating thereto, a permit shall be issued by the Supervisor upon approval by the State Oil and Gas Board, after notice and hearing.

RULE 5. Transfer of Permit (as amended by Docket No. 53-77, Order No. 79-77, effective March 17, 1977).

(a) Each person who succeeds to the rights under a permit shall, within ten (10) days after the rights are acquired, notify the Board in writing thereof.

(b) Wells approved for unit operations under a designated operator after notice and hearing by the Board shall be exempt from payment of a second permit fee.

(c) In the event a change of operators from that listed in the drilling permit is desired, the operator so listed and the proposed new operator shall apply to the State Oil and Gas Board for authority to change operators on Form 2 or Form 8. This application shall be accompanied by a fee of $50.00, payable to the Oil and Gas Board.

RULE 6. Identification of Well

Every person drilling for oil or gas or operating, owning, or controlling, or in possession of any well drilled for oil or gas, shall
post on the derrick or in a conspicuous place near the well, a sign in reasonably large and clear lettering, showing the name of the person drilling, operating, owning or controlling the well, the name of the lease and the number of the well.

RULE 7. Spacing of Oil Wells (as amended by Docket No. 131-69, Order No. 243-69, effective August 7, 1969).

1. With respect to each pool occurring in the discovery well, the top of which is encountered below a measured depth of 12,000 feet below the surface, and in the Pennsylvanian and older formations with respect to each pool occurring in the discovery well, the top of which is encountered below a measured depth of 3,500 feet below the surface, every oil well:

(a) Shall be located on a drilling unit consisting of eighty (80) surface contiguous acres, or two governmental quarter-quarter sections containing not less than seventy-two (72) acres or more than eighty-eight (88) acres, upon which no other drilling or producible well is located;

(b) Any drilling unit not composed of two governmental quarter-quarter sections must be completely encompassed by the perimeter of a rectangle 1600 feet by 2725 feet. Provided, however, no unit shall be permitted which will create island acreage;

(c) The well shall be located at least 1,000 feet from every other drilling or producible well located in conformity with this rule; and

(d) The well shall be located at least 500 feet from every exterior boundary of the drilling unit.

2. With respect to all other pools, every oil well:

(a) Shall be located on a drilling unit consisting of forty (40) surface contiguous acres, or a governmental quarter-quarter section containing not less than thirty-six (36) acres or more than forty-four (44) acres, upon which no other drilling or producible well is located;

(b) Any drilling unit not a governmental quarter-quarter section must be completely encompassed by the perimeter of a rectangle 1810 feet by 1445 feet. Provided, however, no unit shall be permitted which will create island acreage.

(c) The well shall be located at least 660 feet from every other drilling or producible well located in conformity with this rule; and
(d) The well shall be located at least 330 feet from every exterior boundary of the drilling unit.

3. No portion of the drilling unit upon which a well is located shall be attributed, in whole or in part, to any other drilling or producible well in the same pool.

4. If any well drilled in conformity with the provisions of this rule, or as an exception thereto, is completed as a gas well, it shall not be produced except for a test period of not exceeding fifteen (15) days, or in compliance with applicable special field rules, or until authorization has been granted by the Board after notice and hearing.


1. With respect to each pool occurring in the discovery well, the top of which is encountered below a measured depth of 12,000 feet below the surface, and in the Pennsylvanian and older formations with respect to each pool occurring in the discovery well, the top of which is encountered below a measured depth of 3,500 feet below the surface, every gas well:

(a) Shall be located on a drilling unit consisting of (1) 640 contiguous surface acres; or (2) a governmental section containing not less than 600 acres or more than 680 acres; or (3) sixteen (16) contiguous governmental quarter-quarter sections whose total acreage is not less than 600 acres or more than 680 acres. In any case no other well producing from the same pool shall be located on any such unit.

(b) Any gas drilling unit formed under section 1(a) of this rule must be completely encompassed by the perimeter of a rectangle 5580 feet by 6245 feet. Provided, however, no unit shall be permitted which will create island acreage.

(c) The well shall be located at least 3,000 feet from every other drilling well or well completed in or producing from the same pool located in conformity with this rule; and

(d) The well shall be located not less than 1,500 feet from every exterior boundary of the drilling unit.

2. With respect to all other pools, every gas well:

(a) Shall be located on a drilling unit consisting of (1) 320 contiguous surface acres; or (2) a governmental half section containing not less than 300 acres or more than 340 acres; or (3) eight (8) contiguous governmental quarter-quarter sections
whose total acreage is not less than 300 or more than 340 acres. In any case no other well producing from the same pool shall be located on any such unit.

(b) Any gas drilling unit formed under section 2(a) of this rule must be completely encompassed by the perimeter of a rectangle 3735 feet by 5380 feet. Provided, however, no unit shall be permitted which will create island acreage.

(c) The well shall be located at least 1,980 feet from every other drilling well or well completed in or producing from the same pool located in conformity with this rule; and

(d) The well shall be located not less than 990 feet from every exterior boundary of the drilling unit.

3. No portion of the drilling unit upon which a well is located shall be attributed, in whole or in part, to any other well drilling in or producing from the same pool.

4. If any well is completed as a gas well in the gas cap of a pool productive of oil, or if any well drilled as a gas well is productive from or completed in an oil pool, it shall not be produced except for a test period not exceeding fifteen (15) days, or in compliance with applicable special field rules, or until authorization has been granted by the Board after notice and hearing.

RULE 9. Exceptions to Spacing Rules

The Board may grant an exception to any spacing rule whenever the Board shall determine, after notice and hearing, and the facts clearly support the determination, that the unit is partly outside the pool, or, for some other reason, a well so located on the unit would be non-productive or topographical conditions are such as to make the drilling at such location unduly burdensome. Application for an exception on Form 2 shall be accompanied by a plat or sketch drawn to the scale of not smaller than one (1) inch equaling 1000 feet, accurately showing to scale the property on which the permit is sought, all other completed, drilling and permitted wells on this property, and all adjoining surrounding properties and wells. The application shall be verified by some person acquainted with the facts.

Whenever an exception is granted, the Board shall take such action as will offset any advantage which the person securing the exception may have over any other producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract with respect to which the exception is granted will be prevented or minimized and the producer of the
well drilled as an exception will be allowed to produce no more
than his just and equitable share of the oil and gas in the pool. If
the drilling unit is of less acreage than that prescribed by the
applicable spacing rule as a regular drilling unit, such special
unit shall be allowed to produce only in the proportion that the
acreage content of such special unit bears to the acreage content
of the regular p. escribed unit.

RULE 10. Sealing Off Strata

(a) No stratum upon being penetrated shall be drilled or left
open, except at the direction of the Supervisor, without the
application of mud-laden fluid or other means to prevent the
escape of oil or gas while further drilling in or through such
stratum.

(b) All fresh waters and waters of present or probable future
value for domestic, commercial, or stock purposes shall be
confined to their respective strata and shall be adequately
protected.

(c) Before any oil or gas well is completed as a producer, all
oil, gas and water strata above and below the producing horizon
shall be sealed or separated in order to prevent their contents
from passing into another strata.

RULE 11. Surface Casing

The minimum amount of surface or first-intermediate casing
to be set shall be determined from the following table:

<table>
<thead>
<tr>
<th>Proposed Total Depth—Feet</th>
<th>Minimum Casing Requirements—Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2500</td>
<td>200'</td>
</tr>
<tr>
<td>2500-6000</td>
<td>200' + 8% of proposed depth in excess of 2500'</td>
</tr>
<tr>
<td>6000-7000</td>
<td>480' + 10% of proposed depth in excess of 6000'</td>
</tr>
<tr>
<td>7000-8000</td>
<td>580' + 15% of proposed depth in excess of 7000'</td>
</tr>
<tr>
<td>8000-9000</td>
<td>730' + 20% of proposed depth in excess of 8000'</td>
</tr>
<tr>
<td>9000-Deeper</td>
<td>930' + 25% of proposed depth in excess of 9000'</td>
</tr>
</tbody>
</table>

Casing shall be cemented with 500 sacks of cement or cement-
admix or circulated to the surface, whichever is the lesser.

Casing shall be tested at a pressure equivalent to 1 lb. per sq.
inches per foot of casing set with a maximum test pressure of 1,000
lbs. per sq. inch.

Cement or cement-admix shall be allowed to stand a
minimum of twelve (12) hours under pressure before initiating test
or drilling plug. "Under pressure" is complied with if one float valve is used, or if pressure is held otherwise.

The proposed surface casing program for any well is to be presented with the filing of Form No. 2, "Application to Drill."

Prior to the spudding of any well, exceptions may be granted to the above minimum casing requirements upon submission of proper evidence and subject to the joint approval of the Supervisor and Chief Engineer of the Board. In event this approval for an exception to the minimum casing requirements is denied, the operator may seek further relief before the Board after notice and hearing.

In case an operator decides to drill deeper after drilling to his initial proposed total depth, he may secure relief to the above minimum casing requirements just as though his original intent was to drill the well as an exception to the minimum casing requirements, provided, however, that such exception is approved by the Supervisor and Chief Engineer.

RULE 12. Producing Casing (as amended by Docket No. 67-55, Order No. 118-58)

All oil and gas wells shall be completed with a string of casing which shall be properly cemented at a sufficient depth adequately to protect the oil or gas bearing pool. In every case no less cement shall be used than the calculated amount necessary to fill the annular space to a point 500 feet above the shoe. Cement shall be allowed to stand at least a total of twenty-four (24) hours before drilling plug.

Before drilling the cement plug in the string of casing of any well, the casing shall be tested at a pressure in pounds per square inch calculated by multiplying the length in feet of a producing string by two-tenths (0.2) with the maximum test pressure required, unless otherwise ordered by the Board, not to exceed fifteen hundred (1500) pounds per square inch.

If at the end of thirty minutes the pressure gauge shows a drop of ten per cent (10%) of the test pressure or more, such corrective measures must be taken as will insure that the producing string of casing is so set and cemented that it will hold the pressure for thirty minutes without a drop of more than ten per cent of the test pressure on the gauge.

The Board may, at its discretion, require that the operator give sufficient notice prior to conducting casing tests so that a Board representative may be present at such time as either the surface or producing casing is tested in any well.
RULE 13. Flowout Preventers

In drilling areas where high pressures are likely to exist and on all wildcat wells, all proper and necessary precautions shall be taken for keeping the well under control, including the use of blowout preventers and high pressure fittings attached to properly anchored and cemented casing strings.

RULE 14. Deviation of Hole and Directional Survey

(a) Each operator shall file on Form No. 3 a record of all deviation tests taken.

(b) No well shall cross drilling unit lines unless permit is obtained from the Board after notice and hearing.

(c) Intentional deviations of short distances necessary to straighten the hole, sidetrack, junk, or correct other mechanical difficulties may be accomplished without the issuance of a permit, but the operator shall immediately notify the Board by letter or telegram of the fact thereof.

(d) Except as set forth in paragraphs (c) and (e) hereof, no well may be directionally deviated from its normal course unless authorization so to do is first obtained from the Board after notice and hearing.

(e) In the event an operator in good faith commences and proceeds with the drilling of a straight well and thereafter, for reasons acceptable to the operator, desires to directionally deviate the well, he may do so at his own risk, first notifying the Board by letter or telegram of the fact thereof. On completion of such well as a producer, the operator must immediately apply for a permit from the Board on notice and hearing for approval of such intentional deviation. Pending such approval or disapproval, the Board may assign a temporary allowable only to such well.

(f) In cases of directionally deviated drilling the Board shall have the right to assess appropriate allowable penalties to prevent undue drainage from offset properties and to adjust possible inequities caused by the directional drilling.

(g) When a well is directionally deviated from its normal course for any reason, a complete angular deviation and directional survey of the finished hole shall be made at the expense of the operator and a certified copy of such survey shall be filed with the Board within 30 days.

(h) The Board shall have the right to make or to require any operator to make a directional survey of any hole at such
operator's expense. The Board shall also have the right to require an operator to make a directional survey of any hole at the request of an offset operator, if, in the Board's opinion, such is necessary, but at the expense and risk of said offset operator unless it is found that such well is completed at a point outside the operator's drilling unit.

(i) All producible wells drilled from the effective date of this order which are located 300 ft. or less from any drilling unit line and that reach a depth of 4,000 feet or more shall have directional surveys made to the total depth of the hole before setting the final string of casing. A certified copy of such directional surveys shall be filed with the Board by the operator within 30 days.

RULE 15. Multiple and Dual Completions (as amended by Docket No. 227-67, Order No. 27-68, effective April 1, 1968)

(a) No well shall be permitted to produce either oil or gas from different pools through the same string of casing and no well shall be completed with the casing open to one pool and the tubing open to another, unless a permit is obtained from the Board after notice and hearing.

(b) No well shall be permitted to produce from different pools until the pools have been defined and a permit is obtained from the Board after notice and hearing. When an application for a permit is filed to multiply complete after the pools have been so defined, the Supervisor shall have the authority, in his discretion, to issue a temporary permit which shall be good for a period of forty-five (45) days or until a permit shall be authorized or denied by the Board after notice and hearing.

(c) After the pools have been defined, applications to multiple complete may be presented on affidavit unless there is an objection to such procedure by the Board or any interested party. If such an objection is not filed with the Supervisor at least five (5) days prior to the date for hearing, the applicant shall have the right to a continuance until the next regular meeting of the Board.

RULE 16. Fire Hazards (as amended by Docket No. 228-67, Order No. 28-68, effective April 1, 1968)

(a) Anything that might constitute a fire hazard and which is not used, or useful, in the operation of the well, tanks, separator or other equipment shall be removed to a distance of at least 100 feet from the well location, tanks and separators. All heaters,
treaters and other fired vessels shall be located at least 100 feet from all vessels handling or storing crude oil.

(b) All open hole drill stem tests shall be completed in the daylight hours before sunset. Completed shall mean the closing of the drill stem test tool valve. No well shall be swabbed into production except during daylight hours, except in known low pressure areas or except where reasonable safety precautions have been taken to prevent fire or blowout.

(c) Oil shall not be stored in earthen reservoirs or in open receptacles.

RULE 17. Fires, Leaks & Blowouts

All persons operating any oil or gas well or pipe line, or receiving tank, storage tank, or receiving and storage receptable into which crude oil is produced, received or stored, or through which oil is piped or transported, shall immediately notify the Board by letter giving full details concerning all fires which occur at such oil or gas well or tank or receptacle on their property, and all such persons shall immediately report all tanks or receptacles struck by lightning and any other fire which destroys oil or gas, and shall immediately report any breaks or leaks in or from tanks or receptacles and pipelines from which oil or gas is escaping or has escaped. In all such reports, the location shall be given by section, township, range and property. Such report shall likewise specify what steps have been taken or are in progress to remedy the situation reported; and shall detail the quantity of oil or gas lost, destroyed, or permitted to escape. In case any tank or receptacle is permitted to run over, the amount running over shall be reported as in the case of a leak. The report hereby required as to oil losses shall be necessary only in case such oil loss exceeds one hundred (100) barrels in the aggregate.

RULE 18. Well Head Connections

Well head connections of flowing wells shall have a test pressure at least equivalent to 125% of the calculated pressure in the reservoir from which production is expected.

Each flowing oil well shall be equipped with and be produced through tubing not larger than two and one-half (2½) inches in nominal diameter and four (4) inches for gas wells and shall be equipped with master valve.

RULE 19. Separators

Each flowing well must be produced through an oil and gas separator or treater of a type generally used in the industry.
RULE 20. Chokes

Each flowing well shall be equipped with adequate choke or bean to control properly the flowing of the well.


The operator of each producing lease shall maintain proper separators and stock tanks or metering devices and such connections thereto as are necessary to measure the total production from such lease. Where metering devices are used, as herein provided, the production may be commingled in a common storage system and if, upon a sale therefrom a variance exists between the measurement from the common storage system and the total measurement of the production of all the leases commingled in such common storage system, then such variance shall be allocated back to each of the leases producing into the common storage system proportionately to the production measured from each lease.

B. Equipment for Tests:

(1) Each producing well shall be so equipped that gas/oil ratio tests and bottom hole or other pressure tests may be made.

(2) The operator of each producing lease on which there are two or more producing wells shall maintain proper separators and stock tanks or metering devices and such connections thereto as will permit the adequate testing of each individual well under usual operating conditions without the necessity of closing in any other well. Such separators, stock tanks or metering devices and connections thereto shall be subject to approval by the Supervisor.

C. Use of Meters:

The use of meters for testing and for measurement of lease production shall be subject to and in accordance with the following provisions:

(1) Only a volume displacement type metering device or vessel which registers the volume of oil passed through it in barrels or multiples thereof may be used.

(2) All meters shall be downstream of the necessary separating or treating vessels. All meters shall be
designed and installed in conformance with recognized metering practices and shall be subject to the approval of the Supervisor of the Oil and Gas Board.

(3) No meter used for oil production measurement shall be directly or indirectly bypassed in such manner as to permit oil to pass into common storage without first being measured.

(4) All meters and equipment affecting meter accuracy shall be kept in good working order. Each meter shall be calibrated at least once a month by means of a calibrated tank, a calibrated meter prover or a master meter. When a meter is found to deviate in its recording by more than two percent, it must be adjusted to conform to the said tolerance limitation of two percent or the meter calibration factor corrected.

(5) The meter reading and meter calibration factor in use at 7:00 a.m. on the first day of each month for each meter shall be reported on the bottom of the Form 9 reporting the monthly production from the wells being measured by such meter.

D. Automatic Custody Transfer Systems Authorized:

Automatic custody transfer systems which automatically test, sample, measure and transfer the production from the operator to the purchaser are hereby authorized. Such systems may be used to transfer production from individual leases or from common storage facilities as authorized in Rule 21 A above. In the event the transfer is from such a common storage facility, the allocation of production to the leases being produced into such common storage system will be on the basis of the relationship of the measured production from each lease to the total measured production transferred by the automatic custody transfer system.

Each such system will be equipped with a sampling device which will take a representative sample of the total production passing through the system in order that the specific gravity and the basic sediment and water content can be determined.

Each such system will be equipped with a volume displacement type metering device which registers the volume of oil passed through it in barrels or multiples thereof. In addition to meeting all of the requirements set out in Rule 21 C above which deals with the use of meters, said metering device will be compensated for temperature, will be so equipped as to provide a cumulative total of all oil transferred by such system and will
have an accuracy standard equivalent to the accuracy obtained
in the measurements made in calibrated stock tanks.

RULE 22. Vacuum Pumps and Air Lifts

The use of vacuum pumps or other devices for the purpose of
putting a vacuum on any gas or oil-bearing pool is prohibited. Air
lift devices shall be used only on order of the Board and after
notice and hearing.

RULE 23. Well Completion and Recompletion (as amended
by Docket No. 67-58, Order No. 118-58)

(a) Within thirty (30) days after the completion or
recompletion of a well drilled for oil or gas, a completion report on
Form No. 3 shall be filed with the Board. Immediately thereafter
the Board shall, if such well is a producer, designate the well as an
oil well or a gas well.

(b) No well permitted as a stratigraphic test or core hole
drilled below fresh water level shall be completed as a producing
well until an application is filed and a permit is granted in the
same manner and form as provided by applicable rules and
regulations for applications and permits for drilling for oil and
gas with proper indication being made on said application and
permit that the well in question has been drilled as a stratigraphic
test or core hole below fresh water level. The well shall be subject
to all rules and regulations applicable to wells drilled in search of
oil and gas.

RULE 24. Well Logs (As amended by Order No. 371-70, in
Docket No. 277-70, September 16, 1970)

(a) Copies of electrical surveys or logs or radioactive surveys
or logs, except such surveys or logs obtained on stratigraphic
tests, shall be filed with the Board within thirty (30) days, with
Form No. 3. If requested by the person filing on electrical survey
or log, the Board shall keep such log confidential for a period not
exceeding six (6) months from the date on which it is filed. If such
electrical or radioactive logs are not run, the driller's log, as
defined herein, shall be attached to Form No. 3.

(b) Copies of electrical surveys or logs or radioactive surveys
of logs obtained on stratigraphic tests shall be filed with the
Board within six (6) months, with Form No. 3. If requested by
the person filing an electrical survey or log, the Board shall keep
such log confidential for a period of not exceeding one (1) year
from the date on which it is filed.
(c) At the expiration of time in which any log or logs shall be held as confidential by the Board as provided under paragraph (a) or (b) above, said log or logs shall be placed in the open files of the Board and any party or firm shall have the right to examine and/or reproduce copies of said log or logs by photography or other means not injurious to said records, subject to the provision that before any person or firm shall remove any log or logs from the Board's office for purposes of photographing or reproducing the same, he or it shall first obtain written approval from the Supervisor and shall comply with the terms and conditions as may be established by the Board, including the giving of surety bond in such amount or amounts as may be fixed by the Board.

RULE 25. Rework and Recompletion (as amended by Docket No. 67-58, Order No. 118-58)

After a well has once been completed, it shall not be deepened or plugged back, except for ordinary maintenance operations, without first giving five (5) days written notice to the Supervisor of the character of the work proposed and the time when it will begin, except in an emergency as set out in these rules. The application shall be given on Form No. 2 prepared by the Board. The Supervisor shall notify in writing the applicant whether the contemplated work is approved or disapproved. In the case of an emergency, the application may be made orally or by telegraph, and the Supervisor may orally or by telegraph authorize the work; however, written application must be filed within five (5) days after emergency authorization is given, even though the work has already been commenced or completed and a written permit shall be issued which shall contain the emergency authorization.

RULE 26. Report of Shooting or Treating (as amended by Docket No. 67-58, Order No. 118-58)

Within thirty (30) days after the shooting or chemical treatment of an oil or gas well recompleted in the same pool, the owner, producer, or operator in charge of the work shall file with the Board a report on Form No. 3.

RULE 27. Application to Plug

Any drilling well completed as a dry hole, from which the rig is to be moved away shall be mudded and cemented, provided, however, that authorization to the contrary has not been given by the Board.

Before any work is commenced to abandon any well drilled for the discovery of oil or gas, the owner or operator thereof shall
give written notice to the Board of his intent to abandon such well on Form No. 6, prior to beginning operations of plugging said well. Upon receipt of such notice, the Board may issue plugging permit and may send a duly authorized representative to the location specified to be present at the time indicated in such notice, to witness the plugging of such well. In the case of an emergency, the application may be made orally or by telegraph, and the Supervisor may orally or by telegraph authorize the work; however, written application must be filed within five (5) days after emergency authorization is given even though the work has already been commenced or completed and a written permit shall be issued which shall contain the emergency authorization.

No surface or production casing shall be pulled from any abandoned well without first filing Form No. 6 and upon completion of said work, report on Form No. 7 the method in which the well was plugged and the amount of pipe pulled.

RULE 28. Procedure for Plugging

Each abandoned hole or well shall be plugged by or on behalf of the owner, operator or producer who is in charge of the well and responsible therefor. It shall be plugged in accordance with the permit issued as provided for in the preceding rule and, unless the permit or form sets forth the method and procedure of plugging the well, the following shall be applicable:

(a) With reference to the following, mud shall mean a mud fluid of sufficient weight to offset the hydrostatic pressure of any of the formations penetrated and cement shall mean cement or a proper cement-admix recognized by and of accepted use in industry.

(b) All uncased holes shall be plugged in the following manner: The hole shall be filled with mud and cement plugs of not less than 50 feet in length shall be placed to protect each producible pool and a cement plug must be placed approximately 50 feet below all fresh water bearing strata, together with additional cement plugs to properly protect all uncased fresh water bearing sands. Further, a cement plug of not less than 50 feet shall be placed at the bottom of the surface pipe and a plug shall be placed at the surface of the ground in a manner as not to interfere with soil cultivation.

(c) All wells in which production casing has been set shall be plugged as follows:

If the production casing is not to be immediately pulled, a cement or bridging plug shall be placed near the bottom of the
casing string and in such position as to protect any producible pool, and the top of the hole shall be properly capped in order to prevent the intrusion of foreign material into the well.

Where the production casing is to be pulled, a cement or bridge plug shall be placed near the bottom of the production string so as to properly protect any producible pool and the hole filled with mud up to the point where the production casing is severed. The hole shall be filled with mud and a cement plug of not less than 50 feet in length shall be placed at approximately 50 feet below all fresh water bearing strata, together with additional cement plugs to properly protect all uncased fresh water bearing sands. Further, a cement plug of not less than 50 feet shall be placed at the bottom of the surface pipe and a plug shall be placed at the surface of the ground in a manner as not to interfere with soil cultivation.

The operator shall have the option as to the method of placing cement or cement admix in the hole by (1) dump bailer, (2) pumping through tubing, casing or drill pipe, (3) pump and plug, or (4) other method approved by the Board.

Within 30 days after the plugging of any well the owner, operator or producer responsible therefor who plugged, or caused to be plugged, the well shall file an affidavit on Form No. 7 with the Board, setting forth in detail the method used in plugging the well and a record of any casing removed.

RULE 29. Plugging Seismic Shot Holes, Core Drilled Holes, and Stratigraphic Tests

Before any hole is abandoned which was drilled for seismic, core, and other exploratory purposes, and which penetrated below all fresh water strata, it shall be the duty of the owner or driller of any such hole to plug it in such manner as to properly all fresh water bearing strata and to file with the Board within 60 days after plugging well, on Form No. 7, a record of the method in which the well was plugged to protect the fresh water bearing strata.

RULE 30. Plugging to Permit Use of Fresh Water

When any well to be plugged may safely be used as a fresh water well and such utilization is desired by the landowner, the well need not be filled above the required sealing plug set below fresh water; provided that written authority for such use is secured from the landowner and filed with the Board.
RULE 31. Permits—Casing Pullers and Bonds, Tank Cleaners (as amended by Docket No. 67-58, Order No. 118-58)

(a) Before any person shall hereafter engage in the business of pulling casing from any oil or gas well in this state for compensation, or shall hereafter engage in the business of purchasing abandoned wells, with intention of salvaging casing therefrom, such person shall apply for and obtain from the Board a permit to engage in such business. Before the Board shall issue any such permit, such person shall be required to file with the Board a bond executed by such person, as principal, and some surety company satisfactory to the Board as surety in the principal sum of $2,500.00 conditioned that such sum shall be paid the State of Mississippi for the use and benefit of the Board, in the event the principal shall fail to plug an oil or gas well from which the principal pulls casing in the State without complying with the rules of the Board.

The Board shall issue said permits for a term not less than one year, nor more than three years, and the bond shall be for a term co-extensive with the term of the permit. No permit shall be transferable.

The Board shall revoke the permit of any person if, after notice and hearing, it is ascertained by the Board that such person has failed to comply with the statutes of the state, or the rules and regulations of this Board.

(b) Before any person shall engage in the business of removing tank sediments from storage tanks, he must apply on Form No. 16 for a permit to clean each separate tank and shall file Form No. 8, Certificate of Compliance, in order to sell the reclaimed oil or residue.

RULE 32. Regulations of Production

As soon as practicable, the production of oil and gas in all common sources of supply will be controlled or regulated as the facts may warrant, as provided for in Chapter 256 of Laws of 1948. The Board on its own motion may, or at the request of any interested party shall, call hearings to determine the maximum efficient rate at which the several pools in the state can produce oil and gas without waste.

RULE 33. Allowable Hearings (as amended by Docket No. 269-77, Order No. 181-78, effective May 17, 1978)

Except in those fields where special rules provide otherwise, hearings to establish or change the allowable production of oil in
any field shall be held whenever called by order of this Board and also whenever any interested party may petition the Board for such a hearing; provided, however, that no such hearing for such purpose shall be held until at least thirty (30) days' notice.

Hearings to establish allowable production of gas shall be held semi-annually.

RULE 34. Rate of Oil and Gas Production (as amended by Docket 270-77, Order No. 182-78, effective May 17, 1978)

A. Oil: The daily oil allowable per drilling unit, as determined by the Board, must be produced on a monthly basis from the well to which said allowable is allocated, and in the event the well does not have the capacity to produce its total allowable, then it may produce such amount of oil less than its allowable that it is able to produce.

No oil well shall produce during any 24-hour period more than twice its daily allowable except during prescribed testing periods. In recognition of the difficulty of producing the allowable to the exact number of barrels, the allowable production may be exceeded for any month by an amount equal to not more than three (3) days' allowable production, provided that the cumulative amount of such excess production shall not exceed three (3) days' current allowable production at the end of any month.

B. Gas: The Mississippi State Oil and Gas Board shall set the maximum allowable gas withdrawal rates from each gas producing pool. The allocation of allowables to all wells in a nonassociated gas pool will be determined from the maximum efficient rate of production from such pool as established by the State Oil and Gas Board, after notice and hearing, whether called by order of this Board or upon petition filed by any interested party. It is the intent and purpose of this rule to permit each and every gas pool in the state to be produced up to its maximum efficient rate of production, subject to the prohibition of waste and the protection of the co-equal and correlative rights of the owners of a common source of supply.

Semi-annual gas deliverability tests will be made by the operator of each gas well as required by Statewide Rule 41. Opportunity to witness the deliverability tests must be given to the State Oil and Gas Board by filing written notice with the Board at least five (5) days in advance of the testing. The results of these tests shall be furnished the Board on Form No. 4-A on or before February 20 and on or before August 20 of each year. Semi-
annual gas allowable will be established for each gas well each March and September taking into consideration (1) the rate at which each gas pool can be efficiently produced as determined from deliverability tests, and (2) all other facts that are pertinent for the purpose of preventing waste and protecting correlative rights of owners. No well shall produce at a rate higher than its maximum efficient rate. Allowables less than the maximum deliverability may be assigned by the State Oil and Gas Board.

An operator completing a new gas well or placing an old well on production after recompletion, rework, or stimulation shall test the well and file the results of such test with the Board on Form No. 4-a and obtain a temporary allowable prior to producing said well for any purpose other than the well test. The well will be assigned a new allowable on the next gas allowable schedule.

The daily gas allowable allocated to a gas producing unit may not be transferred to another gas producing unit. In the event the well does not have the capacity to produce its total allowable, then it may produce such amount of gas less than its allowable that it is able to produce.

In addition to the allowable assigned each gas well in each pool in the field, it shall be permitted to produce that quantity of gas necessary for use as fuel and light in lease operations in the field.

Any gas well whose cumulative production status is below the cumulative allowable for such well in any pool on the last day of March of any year, as shown by the Production Status Report prepared during the month of May covering production through the month of March of each year, shall have the next ensuing six months, beginning April 1 of each year, in which to produce such cumulated underproduction in addition to its regular monthly allowables. At the end of such six months' makeup period, any cumulative underproduction which has not been made up shall be cancelled.

In making up such underproduction, no well shall be produced at a rate in excess of the amount shown on the latest deliverability test filed with the Board for said well, or produced in such manner that waste is occasioned thereby or that may be detrimental to the well or the pool or field as a whole.

In like manner any gas well whose cumulative production status is in excess of the cumulative allowables for such well on the last day of March of any year, as shown by the Production Status Report prepared during the month of May covering
production through the month of March of each year, shall cut its production for the next ensuing six months, beginning April 1 of each year, below the regular monthly allowables so as to bring its production in balance with its allowables at the end of such makeup period. If, however, such overproduction is not made up by the end of such makeup period, effective December 1 of each year, the well shall be closed in until all overproduction is in balance with the allowed production.

When a well's overproduction or underproduction equals three times its monthly current allowable, the Board may, after notice and hearing, take such action as it deems necessary and proper to protect the co-equal and correlative rights of producers and owners in the field.

Upon proper showing of emergency contemplated in and provided by Section 53-1-23, Mississippi Code of 1972, the Board may, without notice and hearing, by entry of appropriate emergency order, increase, decrease, suspend, or eliminate the allowable assigned to a well or pool, taking such action in connection therewith as it deems necessary and proper to protect the co-equal and correlative rights of producers and owners in the field and to prevent waste.

RULE 35. Adjusted Oil Well Allowable (as amended by Docket No. 119-65, Order No. 187-65, effective July 1, 1965)

(a) If a newly completed oil well comes into production during any allowable period, or if any oil well is placed back into production after having been removed from the allowable schedule, such well may produce, during the remainder of such allowable period, only an allowable equivalent to that assigned, for the remainder of such allowable period, to any regular allowable unit in the field, provided, however, if such well is located on a unit smaller than the regular drilling unit prescribed by the Board for the field, such well shall be permitted to produce during the remainder of such allowable period, only that proportion of the allowable assigned, for the remainder of such allowable period to such a regular allowable unit as the acreage in the smaller unit bears to the acreage in a regular allowable unit. The Board reserves the right to adjust such allowable, and if such allowable is reduced, to charge the overproduction against the future production of such well.

(b) Pending the fixing of the maximum efficient rate of production for an oil well completed in a non-allocated pool, unless the Board, after notice and hearing, either heretofore or
hereafter expressly finds that allowables shall not be imposed on a particular pool, the allowable shall be based upon the depth of the completion zone and shall be as follows:

<table>
<thead>
<tr>
<th>Depth</th>
<th>Maximum Allowable</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-7,000 feet</td>
<td>150 BOPD</td>
</tr>
<tr>
<td>7,000-8,000 feet</td>
<td>200 BOPD</td>
</tr>
<tr>
<td>8,000-9,000 feet</td>
<td>250 BOPD</td>
</tr>
<tr>
<td>9,000-10,000 feet</td>
<td>300 BOPD</td>
</tr>
<tr>
<td>10,000-12,000 feet</td>
<td>350 BOPD</td>
</tr>
<tr>
<td>12,000-14,000 feet</td>
<td>400 BOPD</td>
</tr>
<tr>
<td>Below 14,000 feet</td>
<td>500 BOPD</td>
</tr>
</tbody>
</table>

However, in order to prevent waste and protect co-equal and correlative rights of all parties, the depth of the zone in which the discovery well of a pool is completed shall be used in determining the depth allowable of additional wells in that pool until an MER is established by the Board after notice and hearing.

RULE 36. Cancellation of Oil Allowable

When any oil well shall go off production for any reason and as a result thereof becomes incapable of producing its allowable for any monthly period, or when any oil well becomes incapable of producing its full daily allowable on a monthly basis, same shall be reported to the Board within 10 days and a letter of cancellation or adjustment of allowable for that well shall be issued to the operator, copy thereof to be mailed to the transporter.

RULE 37. Certificate of Compliance

(a) Each producer or operator of any well shall execute under oath, in triplicate, and file with the Board a “Producer’s Certificate of Compliance and Authorization to Transport,” Form No. 8, for each well.

(b) Whenever there shall occur a change in operating ownership of any drilling unit within the state, or whenever there shall occur a change of transporter from any drilling unit within the state, a new Form 8 shall be executed and filed in accordance with the instruction appearing on such form, except that in the case of temporary change in transporter involving less than the production of one month, the producer may, in lieu of filing a new certificate, notify the Board and the transporter then authorized by certificate on file with the Board by letter of the estimated amount to be moved by the temporary transporter and the name of such temporary transporter and a copy of such notice shall also be furnished such temporary transporter.
(c) In no instance shall the temporary transporter move any greater quantity than the estimated amount shown in said notice.

(d) The certificate, when properly executed and approved by the Board, shall constitute authorization to the pipe line or other transporter to transport from the drilling unit named therein; provided this section shall not prevent the production or transportation in order to prevent waste, pending execution and approval of said certificate. Permission for the transportation of such production shall be granted in writing to the producer and transporter at the discretion of the Board.

(e) The certificate shall remain in force and effect until:

1. The operating ownership of the drilling unit changes, or
2. The transporter is changed, or
3. The permit is cancelled by the Board.

RULE 38. Bottom Hole Pressure Tests

The Board may require bottom hole pressure surveys of the pools within the state at such times as it may designate, and such surveys shall be reported to the Board.

RULE 39. Report of Well Status

Each producer or operator of an oil or gas well shall furnish for each month a “Monthly Individual Well Status Report,” setting forth complete information and data indicated thereon. Such report for each month shall be prepared and filed according to the instructions on Form No. 9, on or before the 20th day of the next succeeding month.

RULE 40. Gas-Oil Ratios (as amended by Docket No. 10-65, Order No. 25-65, effective February 17, 1965)

Any oil well producing with a gas-oil ratio in excess of two thousand (2000) cubic feet of gas per barrel of oil produced shall be allowed to produce daily only that volume of gas obtained by multiplying the normal unpunalyzed daily oil allowable by two thousand (2000) cubic feet. The gas volume thus obtained shall be known as the daily gas limit of such well. The daily oil allowable of such well shall then be determined by dividing its daily gas limit, obtained as herein provided, by its producing gas-oil ratio in cubic feet per barrel of oil produced.
RULE 41. Deliverability and Routine Production Tests
(as amended by Docket No. 128-59, Order No.
197-59)

(a) A deliverability test of each producing gas well shall be
made in conformity with schedules issued by the Board. Such test
shall be an actual test to determine whether or not the well is
capable of producing efficiently any allowable that may
reasonably be expected to be assigned to it, and, if the well is not
found to be capable, then the test shall determine the maximum
rate at which the well may efficiently be produced. The method of
testing used shall be one acceptable to the Board. A report of each
test so required shall be promptly furnished to the Board upon
Form No. 4-A. Any operator may make such additional
deliverability tests at any time and report such tests to the Board
in the same manner as required tests are reported. Deliverability
shall be determined by the latest test information furnished to
the Board.

(b) Each oil well and each oil completion of a multiply-
completed well shall be tested by the operator once during each
calendar month during each calendar year in a calibrated stock
tank. The result of such tests shall be reported in writing within
twenty days after the end of each month to the State Oil and Gas
Board on Form No. 17, which is approximately the same as
Interstate Oil Compact Commission Form No. P-9 with certain
deletions and additions.

RULE 42. Producer's Monthly Report

Each operator or producer of oil or gas shall furnish for each
month a "Producer's Monthly Report," setting forth complete
information and data indicated thereon. Such report for each
month shall be prepared and filed with the Board on Form No. 15,
according to the instructions on said form, on or before the 15th
day of the next succeeding month.

RULE 43. Taker's Report of Gas

All gas produced from gas wells within the state which is
taken into a fuel system, transmission system, or other system
(except gas taken into a gasoline cycling or other extraction plant
gathering system which is required to be represented on the
"Gasoline or Other Extraction Plant Monthly Report," Form No.
11), shall be reported monthly on Form No. 12, "Monthly Gas
Report," by the person taking such gas from the well. Such report
shall be filed on or before the 20th day of the next succeeding
month. Casinghead gas taken from the lease shall be reported by
the taker on said Form No. 12.

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RULE 41. Plant Projects, Cycling Plants, etc.

No pressure maintenance plant, cycling plant, gas-return plant, salt water disposal system, or similar plant or project shall operate until authorized by the Board after notice and hearing.

RULE 45. Injection or Disposal (as amended by Docket No. 67-58, Order No. 118-58)

The application for all permits to inject gas, air, or water into any reservoir should be made on Form No. 2 and proposed plan of work attached on a separate sheet of paper, and which shall contain the following information:

Name of field; name of operator; name of injection wells; depth interval of injection zone; size of surface casing; length of surface casing; sacks of cement used on surface casing; size of injection casing; length of injection casing; cement used for injection casing; size of tubing; length of tubing; depth of packer setting, if used; depth of shallowest zone productive of oil or gas in field; depth of deepest zone containing fresh water in field; other disposable wells in field using same zone for injection purposes; expected volume of salt water to be injected daily; open and closed type system; and a certification by the applicant that in his opinion the proposed injection zone is non-productive of oil or fresh water and that the injection of salt water into said zone will not be detrimental to any oil or fresh water bearing sands in the field.

After the completion or recompletion of any well for the injection of gas, air or water or for the disposal of water, the operator shall file Form No. 3 (Well Completion Report) setting forth all pertinent information. Within thirty days after the discontinuance of injection or disposal operation the operator shall notify the Board by letter of such discontinuance and the reasons therefor, if disposal or injection operations have not been resumed.

Before any injection or disposal well is reworked or plugged, notice shall be given to the Board by the owner of said well and the same procedures shall be followed as though the well were being reworked or plugged as a producing oil or gas well.

RULE 46. Extraction Plant Reports

Each operator of a gasoline plant, cycling plant, or any other plant at which gasoline, butane, propane, condensate, kerosene, oil, or other liquid products are extracted from gas within the state, shall furnish for each calendar month a "Gasoline or Other
Extraction Plant Monthly Report," Form No. 11, containing the information indicated by such form respecting gas and products involved in the operation of each plant during each month.

Such reports for each month shall be prepared and filed according to instructions on the form on or before the 20th day of the next succeeding month.

RULE 47. Fluid Injection Reports

Every person injecting gas or fluid into the earth shall make a monthly report to the Board on Form No. 14, provided by the Board, showing the quantities of all oil, gas and water injected during the month covered by the report and identifying the underground reservoir or reservoirs into which the injection is made.

RULE 48. Ratable Take

Each person now or hereafter engaged in the business of purchasing oil or gas from owners, operators, or producers shall purchase without discrimination in favor of one owner, operator, or producer against another in the same common source of supply.

RULE 49. Legal Stock

Each producer or operator is prohibited from delivering illegal oil to any transporter, and each transporter is prohibited from removing any illegal oil. Each transporter shall maintain necessary records of lease allowables and quantities of oil removed from the leases to which he is connected, whereby he can determine the calculated quantity of legal oil on hand at the close of each calendar month with respect to such leases. The calculated quantity of legal oil on hand with respect to any lease shall be determined for each succeeding month by adding to the quantity of legally produced oil on hand at the first of the month, the scheduled allowable quantity of oil for the respective lease for the current month, as established by the Board, less the quantity of oil removed from the respective lease tanks during the current month. If the calculated balance so determined is less than the actual gauged quantity on hand as reported in "Producer's Monthly Report," Form No. 15, the transporter shall not remove during the month any oil in excess of the calculated legal balance so established plus the allowable for the month. If the actual quantity of oil on hand with respect to a particular lease equals or is less than the quantity of legal oil established by the above method, the transporter may remove any part of all of such quantity of oil during the current month. Where the actual quantity of oil on hand with respect to a particular lease is less
than the calculated quantity of legal oil established by the above method, the transporter, in determining the quantity of legal oil for the next succeeding month, shall substitute the actual quantity on hand for the calculated quantity on hand. Where there is more than one transporter moving oil from the same lease, the producer or operator and transporters are required to furnish to each other information as to the quantity of oil on hand, the quantity transported from lease tanks and any additional information necessary to establish to the satisfaction of each person involved the legal status of the oil produced.

Where transporter disconnects from a particular lease or ceases to remove oil therefrom and another transporter connects to such lease or begins to take oil therefrom, during a month, the transporter who ceases to take oil shall furnish the connecting transporter a certified statement under oath, showing the legal quantity of oil on hand 7:00 A.M. the first day of such month, the scheduled allowable to the date disconnected, and the quantity of oil moved from the particular lease during the current month. In such case the producer or operator shall furnish to the connecting transporter a certified statement under oath showing the lease stock on hand 7:00 A.M. the date of new connection. No connecting transporter shall move oil from any such lease until after it shall have received such statements, except with the written permission of the Board.

In cases where crude oil is transported from lease to final destination by a combination haul, that is, truck and pipeline, the responsibility of securing the certificate of compliance and authorization to transport oil from lease shall be determined by which of the two carriers take custody of the oil at the lease tankage. Custody of the oil shall have been accomplished when the transporter issues a receipt ticket for the oil at the lease tankage. The carrier issuing the receipt ticket at the lease tank shall be the carrier named in the certificate of compliance.

RULE 50. Transporter's & Storer's Report

Each transporter of oil within the state shall furnish for each calendar month a "Transporter's and Storer's Monthly Report," Form No. 10, containing complete information and data indicated by such form respecting stocks of oil on hand and all movements of oil by pipeline, within the state, and all movements of oil by watercraft, or by trucks or other conveyances except railroads, from leases to storers or refiners; between transporters within the state; between storers within the state; between refiners within the state; and between storers and refiners within the state.
Each storer of oil within the state shall furnish for each calendar month a "Transporter's and Storer's Monthly Report," Form No. 10, containing complete information and data indicated by such form respecting the storage of oil within the state. The transporter's and storer's reports shall be filed on or before the 20th day of the next succeeding month.

RULE 51. Refiner's Report

Each refiner of oil within the state shall furnish for each calendar month a "Refiner's Monthly Report," Form No. 13, containing the information and data indicated by such form, respecting oil and products involved in such refiner's operations. Such report shall be filed on or before the 20th day of the next succeeding month.

RULE 52. Notice to Transporter of Violations

The Board shall notify in writing any transporter of oil, gas or condensate of the failure of any producer or operator to comply with any Statewide or Special Field Rule and such transporter so notified shall refrain thereafter from transporting oil, gas or condensate from the property in question until notified in writing by the Board of such producer's or operator's compliance.

RULE 53. Service Company Report

When a service company, other than the drilling contractor, cements, perforates, or acidizes, either before or after completion of a well, the service company shall furnish the Board with legible exact copies of reports furnished the owner of the well.

The Board may require that it be furnished with copies of reports of other services performed.

RULE 54. Organization Report (as amended by Docket No. 67-58, Order No. 118-58)

Every person acting as principal or as agent for another or who is independently engaged in the production, storage, transportation (except by railroads), refining, reclaiming, treating, marketing, processing of, or scientific exploration for crude oil or natural gas shall immediately file on Form 1 under oath with the Board a statement giving the following information: The name under which such business is being operated or conducted; the name and post office address of such person and the business or businesses in which he is engaged; the plan or organization and, in case of a corporation, the law under which it is chartered; and the names, titles and post office
addresses of the principal officers thereof, including the manager or agent, and the names and the post office addresses of all directors thereof; of a partnership, the names, titles and post office addresses of the partners.

Immediately after any change occurs as to facts stated in the report filed, a supplementary report, under oath, shall be filed with the Board with respect to such change.

RULE 55. Identification of Facilities

Every person owning, operating or controlling any refinery, tank farm, cycling plant, repressuring or pressure maintenance facilities, extraction plant, or pipeline pumping station shall, at all times, during the operation thereof, maintain on the premises near each such facility a sign in reasonably large and clear lettering, showing the name of the person owning and operating such facility.

RULE 56. Records

All producers, transporters, storers, refiners, gasoline or other extraction plant operators, and initial takers of gas within the state, shall make and keep appropriate books, and records covering their operations in the state from which they may be able to make and substantiate the reports required by the Board. Such books, records and copies of said reports and notices required by the Board shall be kept on file and available for inspection by the Board for a period of at least two (2) years.

RULE 57. Adoption of Forms (as amended by Docket No. 67-58, Order No. 118-58)

The forms hereinafter listed and attached to these Rules as exhibits 1 to 16 and Form Z, inclusive, are hereby adopted and made a part of these rules for all purposes and the same shall be used and the information required thereby shall be furnished as directed by the Board’s Rules in the giving of notice and in making of reports and requests to the Board, said amended forms being numbered and entitled as follows:

Form No. Title
1 Organization Report
2 Application for Permit to Drill, Deepen or Plug Back
3 Well Completion or Recompletion Report and Well Log
4-A Gas Well Deliverability Test
6 Notice of Intention to Plug and Abandon
6-a Application for Multiple Completion
6-b Packer Setting Report
6-c Packer Leakage Test
7 Plugging Record
8 Operator's Certificate of Compliance and Authorization to Transport Oil or Gas from Drilling Unit
9 Well Status Report
10 Transporter's and Storer's Monthly Report
11 Gasoline Plant or Pressure Maintenance Plant Monthly Report
12 Gas Purchasers Monthly Report
13 Refiner's Monthly Report
14 Monthly Report on Fluids Injected
15 Monthly Producer's Report
16 Permit to Clean Tank
17 Well Test Report
Z Purchaser's and Producer's Report of Maintenance Charge

Copies of printed forms will be supplied upon request.

RULE 58. Special Field Rules Not Revoked

The adoption of these rules shall not revoke any special field rules now in force and which are applicable to particular fields or pools.

RULE 59. Revocation of Prior Rules

Upon the effective date of these rules, all statewide rules now in force shall be revoked and these rules shall govern; provided, however, such revocation of rules heretofore in force shall not validate any prior violation.

The Board may, after notice and hearing, repeal, amend or supplement these statewide rules.

RULE 60. Effective Date

These rules and regulations shall be in full force and effect on and after January 1, 1952.

ORDERED this the 19th day of November, 1951.

STATE OIL AND GAS BOARD
/s/ James McClure
James McClure, Chairman
RULE 61. Firewalls (Order No. 295-70, in Docket No. 159-70, effective September 1, 1970)

(a) Each permanent oil tank or battery of oil tanks now or hereafter located in the State of Mississippi, other than provided for in B and C below, must be surrounded by a dike (or firewall) or retaining wall of sufficient height and size so that the volume enclosed shall be equal to one hundred fifty (150) percent of the capacity of the largest tank in said battery; provided, however, that in such areas where such dikes (or firewalls) or retaining walls would be impractical or impossible to construct, and the operator has devised a plan which serves the same purposes, the Supervisor of the Oil and Gas Board may, upon proper written application, waive in whole or in part the requirement of the construction of such walls.

(b) In water, swamp or marsh areas where the building of firewalls is impractical or impossible, and the requirement thereof has been waived by the Supervisor upon proper written application, permanent tanks shall be placed on an impervious base and surrounded by an impervious gutter to catch all of the oil and other waste products which, upon escape, may cause a fire hazard or pollution. A sump shall be provided to catch the runoff from the gutters. Provided, however, if upon proper written application to the Supervisor, the operator has devised a plan which serves the same purposes, the Supervisor may, after being presented with said plan and approving same, waive this requirement in whole or in part.

(c) Tanks for the accumulation of liquid hydrocarbons not falling into the above categories (A and B above) and all facilities for the loading and transportation of liquid hydrocarbons by truck must be surrounded by a retaining wall, or must be suitably ditched to a collecting sump, either to be of sufficient capacity to contain the potential spillage to prevent the possibility of pollution of surrounding areas.

(d) With respect to tank batteries and loading facilities existing on the effective date of this Rule, the Operator shall have a period of six months from the effective date of this Rule in which to comply with this Rule.

RULE 62. Storage Tanks, Sour Crude Oil (Order No. 149-71, in Docket No. 88-71, effective July 1, 1971)

On all storage tanks or batteries of storage tanks where there is stored, either permanently or temporarily, crude oil, distillate or condensate produced from an oil well or a gas well where any hydrogen sulphide (H₂S) is produced in conjunction with the fluid
such that the vapor or fumes from such liquid, when measured in
the free gas space inside the tank, has a hydrogen sulphide (H₂S)
concentration in excess of 20 ppm as measured using a hydrogen
sulphide (H₂S) detection device of a type capable of measuring
hydrogen sulphide concentrations ranging from 0 to 50 ppm, the
following safety provisions shall pertain, in addition to all other
applicable statewide or special field rules:

A. All access hatches to the tanks capable of being readily
operable shall be kept closed securely at all times except when
necessary for such hatches to be open for inspection and gauging.

B. All stairways or ladders leading from ground level to the
top of each of such tank or tanks shall have installed thereon a
gateway or doorway permanently affixed in such a manner as to
impede further ascent of such ladder or gangway to the top of
such tank or tanks except through the open gate or door. The
gateways or doorways shall be kept securely locked except when
necessary to gauge or inspect such tanks.

C. All fumes and vapor in such tank or tanks shall be
suitably recovered in a vapor recovery unit or flared to the
atmosphere. If flared to the atmosphere, fumes and vapor shall be
flared through a flare stack with a permanent pilot attached
thereon so that the emissions do not exceed applicable air quality
standards.

D. Vapor recovery units shall be suitably provided with
standby facilities for flaring of fumes and vapors to the
atmosphere in the event of an upset. Such standby venting and
flaring facilities shall be the same as those provided for in
Paragraph C above.

E. A self-contained breathing apparatus shall be worn and
used by all personnel passing through the gateway or doorway
provided in Paragraph B above at all times while on the ladder or
on top of the tank or tanks.

F. All such storage tanks and the nearby surrounding area
shall be conspicuously marked and posted in a manner advising
of the presence of potentially lethal fumes and vapors.

G. This rule shall take effect on and after July 1, 1971,
provided, however, that owners and operators of existing
installations shall have sixty (60) days from said date in which to
comply with these rules without incurring any penalty.

H. Penalty: Any person, firm or corporation willfully
violating any of these rules and regulations shall be punished as
provided by law.

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I. Provided, however, that storage tank or tanks within the boundaries of a petroleum refinery or petrochemical plant shall be exempt from the provisions of this Rule.

RULE 63. Water by Pollution of Air, Fresh Waters and Soils Prohibited (as amended by Docket No. 4-77, Order No. 132-77, effective April 21, 1977)

I. Scope and Policy:

Pursuant to Chapter 301, General Laws of 1970, these rules and regulations are hereby promulgated to prevent waste by pollution of air, fresh waters and soils. These rules shall be effective throughout the State of Mississippi and are for the purpose of prevention of waste by pollution of air, fresh waters and soils.

II. Definitions:

A. Fresh water for the purpose of administering of these rules and regulations shall mean surface or subsurface water in its natural state useful for domestic, livestock, irrigation, industrial, municipal, and recreational purposes.

B. Soil shall mean any substance on which trees, grass, crops, or other vegetation may grow, down to not less than the depth of the water table.

C. Fresh water stratum shall mean a stratum from which fresh water may be produced in known sufficient quantities and at a cost making its use feasible as fresh water.

D. Deleterious substance shall mean any chemical, salt water, oil field brine, waste oil, waste emulsified oil, basic sediment, and injurious substances produced or used in the drilling, development, producing, refining, and processing of oil, gas, sulphur, and other minerals.

III. Prevention and Elimination of Waste by Pollution:

A. Waste by pollution of air, fresh waters, and soils is prohibited as hereinafter set out.

B. Crude oil, waste oil, oil sludge, oil-water emulsion, or oil-bearing mixtures of any kind, and all other liquid, gaseous, solid, radioactive, or other deleterious substances which may pollute or tend to pollute the air, soils, or any waters of the state shall be disposed of in such a manner as to prevent, eliminate or reduce waste by pollution to acceptable levels.
C. All produced gas recovered at separators, heater-treaters, storage tanks, or similar separation vessels not sold, used as fuel, or serving any other useful purpose that is being vented and the emissions exceed applicable standards, shall be flared through a flare stack, with a permanent pilot if necessary to insure continuous burning, or processed in a manner so that emissions do not exceed applicable standards. Flare stacks shall extend no less than six (6) feet above ground level and shall be located no less than one hundred (100) feet from all well locations, vessels handling or storing crude oil, or other combustible substances, or any other potential fire hazard.

D. All produced non-combustible gas recovered at separators, heater-treaters, storage tanks, or similar separation vessels, such as carbon dioxide (CO₂), etc., which is not being used for a useful purpose, in lieu of flaring shall be returned to the subsurface stratum from which it was originally produced or to a strata approved by the Supervisor if emissions to the atmosphere would exceed applicable standards.

F. Earthen Pits:

1. The use of earthen pits shall be phased out and discontinued except as hereinafter provided. All earthen pits abandoned during the three (3) years prior to the adoption of this Rule by the Mississippi State Oil and Gas Board shall be emptied of fluids, in a manner that will not violate water quality standards, backfilled, leveled and compacted by January 1, 1978. All other earthen pits upon abandonment or at the time of the expiration of a valid permit or extension thereof covering same shall immediately be emptied of all fluids, backfilled, leveled and compacted. These provisions do not apply to any earthen pit which has been abandoned and not in use for more than three years prior to the adoption of this Rule by the State Oil and Gas Board.

Penalties as provided for in Section 53-1-47 of the Mississippi Code of 1972 may be assessed for using any earthen pit without a valid permit being issued by the Supervisor of the State Oil and Gas Board being currently in effect.

2. The Supervisor of the State Oil and Gas Board may issue permits for the use of certain earthen pits, but no permit shall be valid for a period of more than two years from the date of issuance, unless renewed by the Supervisor. Regardless of the type of permit issued, it must be renewed at least every two (2) years, or more often if so stated on the permit, or provided for by the Rules and Regulations promulgated by this Board.
All permits now in existence issued by the Supervisor for the use of earthen pits shall expire within two (2) years from the date of the adoption of this Rule by the State Oil and Gas Board unless so provided otherwise, and must then be renewed by the Supervisor.

The Supervisor of the State Oil and Gas Board may issue a permit for the construction of certain earthen pits. Permits may be issued for five types of earthen pits, as follows:

**Temporary Salt Water Storage Pits:**
This type of pit is temporary, and is permitted only if no other means of storing or disposing of salt water is available. For example, a new discovery well might be located in an area remote from possible salt water disposal wells.

**Emergency Pits:**
This type of earthen pit is intended for emergency conditions, including the rupture or failure of other facilities.

**Burn Pits:**
This type of pit is intended for use as a place to burn tank bottoms and other refuse products that cannot be handled practicably in any other way.

**Well Test Pits:**
This type of pit is contemplated as a small pit used to test a producing well for a short length of time.

**Drilling Reserve Pits (Mud Pits):**
A special permit is not required for Drilling Reserve Pits because an approved Form No. 2 (Permit to Drill) constitutes the permit for the Drilling Reserve Pit. This type of pit is subject to strict stipulations as to backfilling when drilling is completed. (See below.)

3. The Following Conditions Govern Temporary Salt Water Storage Pits:
(a) The pit shall be lined with an impervious material acceptable to the Supervisor or his field representative and so constructed that salt water stored will not cause waste by pollution of fresh waters or contamination of soils beyond the confines of the pit. The pit will be protected from surface waters.
by dikes and by drainage ditches, where needed, and no siphons
or openings will be placed in the walls or dikes.

(b) A representative of the State Oil and Gas Board must be
given an opportunity to inspect a pit prior to use.

(c) The pit level shall never rise to within one (1) foot of the
top of the pit walls or dikes and shall be kept below this level by
emptying the pit of fluids in a manner compatible with Section
III-E.9.

(d) Only produced water shall be intentionally placed in the
pit. Such water shall contain no more than the traces of oil
remaining after separation with normal field facilities.

(e) The pit shall be identified with a sign (minimum of one (1)
foot square) placed conspicuously near the pit containing the
name of the operator, the location of the pit (section, township,
range, and county), and the permit number issued by the
supervisor.

(f) When the use of the pit is to be discontinued, the
Supervisor shall be notified in writing.

4. The Following Conditions Govern Emergency Pits:

(a) The pit will be protected from surface waters by dikes and
by drainage ditches, where needed, and no siphons or openings
will be placed in the walls or dikes that would permit the escaping
of the contents of the pit so as to cause waste, pollution or
contamination.

(b) A representative of the State Oil and Gas Board must be
given an opportunity to inspect a pit prior to use.

(c) The pit level shall never rise to within one (1) foot of the
top of the pit walls or dikes.

(d) No produced water shall be intentionally placed in the pit
except as provided in (g) below. Its intended use is for emergencies
only.

(e) The pit shall be identified with a sign (minimum of one (1)
foot square) placed conspicuously near the pit containing the
name of the operator, the location of the pit (section, township,
range, and county), and the permit number issued by the
Supervisor.

(f) When the use of the pit is to be discontinued, the
Supervisor shall be notified in writing.
(g) Said pits may be used in the event of a salt water disposal or water injection system failure, but each such use shall not exceed a period of sixty (60) days. The operator shall advise the Supervisor or his field representative within seventy-two (72) hours after commencement and completion of such emergency use. Within two (2) weeks after the emergency period, the pit shall be emptied so as to contain not more than two (2) feet of water and inspected by a representative of the State Oil and Gas Board for future emergency use.

5. The Following Conditions Govern Burn Pits:

(a) Shall be constructed in such a manner as to limit fire hazard to a minimum, and in no case shall they be located less than one hundred (100) feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

(b) Shall be constructed so as to prevent the escape of any of the contents and to prevent waste, pollution or contamination of fresh water, either surface or subsurface, or soils on property beyond the confines of the pit.

(c) Shall have a continuous embankment surrounding the pit sufficiently above the surface to prevent surface water from running into the pit.

(d) The pit shall be identified with a sign (minimum—one (1) foot square) placed conspicuously near the pit containing the name of the operator, the location of the pit (section, township, range, and county), and the permit number issued by the Supervisor.

(e) A representative of the State Oil and Gas Board must be given an opportunity to inspect a pit prior to use.

(f) Any burning process shall be carried out in conformance with the Mississippi Air Quality Regulations. Notification as required by said regulation shall be made to the Mississippi State Oil and Gas Board.

(g) No brine water, radioactive material, except industry-accepted and license-approved radioactive material utilized in oil field operations, and radioactive material naturally occurring in the produced fluids, or other noncombustible waste products shall be placed in the pit, except water or emulsion which may be associated with crude oil swabbed or otherwise produced during test operations, or during tank cleaning operations.

(h) The pit level shall never rise to within two (2) feet of the top of the pit walls or dikes.
(i) When a pit is to be abandoned, the Supervisor shall be notified in writing. When abandoned, the pit shall be emptied of fluids, backfilled, leveled, and compacted.

(j) In between uses as a burn pit, the pit level shall be kept at a suitably low level by periodically emptying the pit of fluids in a manner compatible with Section III-E-9 (below).

6. The Following Conditions Govern Well Test Pits:

(a) Shall be constructed in such a manner as to limit fire hazard to a minimum, and in no case shall they be located less than one hundred (100) feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

(b) Shall be constructed so as to prevent the escape of any of the contents and to prevent waste, pollution or contamination of fresh water, either surface or subsurface, or soils on property beyond the confines of the pit.

(c) Shall have a continuous embankment surrounding the pit sufficiently above the surface to prevent surface water from running into the pit.

(d) The pit shall be identified with a sign (minimum—one (1) foot square) placed conspicuously near the pit containing the name of the operator, the location of the pit (section, township, range, and county), and the permit number issued by the Supervisor.

(e) A representative of the State Oil and Gas Board must be given an opportunity to inspect a pit prior to use.

(f) Any burning process shall be carried out in conformance with the Mississippi Air Quality Regulations. Notifications as required by said regulations shall be made to the Mississippi State Oil and Gas Board.

(g) The pit level shall never rise to within two (2) feet of the top of the pit walls or dikes.

(h) When a pit is to be abandoned, the Supervisor shall be notified in writing. When abandoned, the pit shall be emptied of fluids, backfilled, leveled, and compacted.

7. Conditions Governing Reserve Pits for Drilling Operations:

Mud pits used in conjunction with drilling operations shall be constructed so as to prevent the escape of any of the contents and
to prevent waste by pollution or contamination of fresh water, either surface or subsurface, or soils or property beyond the confines of the pit. The pit will be protected from surface waters by dikes and drainage ditches, and no siphons or openings will be placed in the walls or dikes that would permit the escaping of the contents of the pit so as to cause waste, pollution or contamination. Upon completion of drilling operations, mud pits shall be emptied of fluids, backfilled, leveled, and compacted within three (3) months. Extensions may be granted by the Supervisor where warranted. Mud pits may be used as test pits upon compliance with Section 6 above and with the concurrence of the field representative of the State Oil and Gas Board.

8. Revocation of Pit Permits:

Should the Supervisor of the State Oil and Gas Board determine that the continued operation of a pit or pits would result in waste by pollution of fresh water or water courses, or contamination of soils outside the confines thereof, he may prohibit further use of the pit or pits until the conditions causing or likely to cause such waste by pollution have been corrected. If corrective measures are not satisfactorily completed within thirty (30) days, the Supervisor may revoke the pit permit. Penalties as provided for in Section 53-1-47 of the Mississippi Code of 1972 may be assessed. When a pit permit is revoked, the pit shall be emptied of fluids within two (2) weeks and backfilled, leveled, and compacted within thirty (30) days or additional penalties may be assessed.

9. Disposition of Pit Fluids:

Fluids removed from all pits shall be disposed of in such a manner as not to cause waste or waters of the state to exceed applicable water quality effluent standards or contamination of soils.

10. Waiver of Pit Backfilling Requirements:

In those instances wherein the owner of the surface lands and the operator of a producing well, an abandoned well, or a drilled well have reached agreement for payment in lieu of restoration of the premises, and when in such cases it is established that all potential contaminants have been removed, leaving only the earthen pit, then after examination by a representative of the State Oil and Gas Board, the Supervisor of said Board is authorized to waive requirement for backfilling and compacting upon receipt by the Supervisor of an agreement executed by the surface owner(s) assuming all responsibility and liability for the pits.

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F. Impervious Containers:

Impervious containers shall be used in lieu of pits in areas where it is impossible or impractical to construct a pit, or to protect waters used for public water supply, shellfish harvesting, recreation, or fish and wildlife. Where impervious containers are used, the contents shall be removed and properly disposed of within ninety (90) days following usage.

G. Disposal by Injection:

1. No salt water, other waste fluids or deleterious substances or gas shall be injected into an underground reservoir except upon the issuance of a permit by the State Oil and Gas Board after public notice and hearing. Except as heretofore provided, salt water, other waste fluids, and deleterious substances may only be disposed of as follows:

(a) Salt water, other waste fluids, and deleterious substances or gas may be disposed of by injection into the strata from which produced or other salt water-bearing strata containing dissolved solids content greater than 10,000 parts per million, or as approved by the Board, so that the injection of such wastes will not be detrimental to any oil, gas or fresh water-bearing sands in the field.

(b) Where only one string of casing protects subsurface strata containing 10,000 ppm or less dissolved solids content, a packer shall be set on tubing at a depth below such strata or as approved the the Board.

(c) Where only one string of casing protects subsurface strata containing 10,000 ppm or less dissolved solids content or other such strata determined by the Board to be fresh water-bearing, a permit for annular disposal of salt water may be issued for an interim period of one (1) year only. One-year extensions may be granted by the Supervisor provided the salt water is being continuously treated with an industry-approved corrosion inhibitor, the disposal system is a closed type system, and Board-approved surveys indicate that salt water is not entering the protected strata.

2. The information required by Statewide Rule 45, Injection or Disposal, shall be filed in affidavit form with each request for a permit to inject salt water, gas, other waste fluids, and deleterious substances into a disposal well. In the affidavit a qualified engineer or a qualified geologists shall state that in his opinion the proposed injection zone is non-productive of oil or fresh water and contains dissolved solids greater than 10,000 ppm and that
the injection of salt water into said zone will not be detrimental to any oil or fresh water-bearing sands in the field. A sketch of the downhole equipment shall accompany the affidavit.

3. The above rules and regulations governing disposal by injection shall also apply to all injection wells permitted for secondary recovery and pressure maintenance projects, all other injection wells, and all salt water source wells.

4. Other Disposal:

When not prohibited by any applicable rules of the Air and Water Pollution Control Commission, the State Game and Fish Commission, or other regulatory bodies having jurisdiction thereof, salt water may be injected or disposed of into bodies of water containing a dissolved solids content greater than 10,000 ppm where such injection or disposal does not cause waste by pollution.

5. Not withstanding anything contained herein to the contrary, all salt water disposal wells heretofore approved by order of the State Oil and Gas Board, after notice and hearing, shall be exempt from the provisions of this rule except those provisions specified in G-1-b and G-1-c of this section. The Board reserves the right to alter or amend any and all injection permits now in effect, after notice and hearing.

H. Disposal During Drilling Operations:

Drilling muds and fluids and other waste products and deleterious substances used in conjunction with drilling operations may be disposed of by injection into subsurface strata containing a dissolved solids content greater than 10,000 ppm, or as approved by the Supervisor, and void of oil, gas and fresh water, during the progress of or following drilling operations only, provided authorization is granted by the Supervisor of the State Oil and Gas Board.

IV. Suspension of Operations:

Should the Supervisor of the State Oil and Gas Board determine that the continued operation of a well or wells or associated treating, handling or storage facilities would cause waste, pollution or contamination to air, fresh waters or soils, he may immediately prohibit further operation of the well or wells or associated facilities and suspend the operator's certificate of compliance to transport oil, gas or other products until such time as it is determined by the Supervisor that the operator is in compliance with all rules and regulations of the Board.

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V. Effective Date:

This order supersedes Order No. 37-73 of the Stae Oil and Gas Board dated October 17, 1973, and these rules and regulations shall take effect and be in force from and after May 1, 1977, except where otherwise provided.

VI. Penalty:

Any person, firm or corporation violating any of these rules and regulations shall be punished as provided by law.

VII. Property Rights:

The rules and regulations promulgated under Chapter 301, General Laws of 1970, shall be cumulative, and no existing rights of owners of property to file suits for damages shall be abridged or limited hereby.

VIII. Refinery Operations:

Earthen pits defined herein are not intended to include those facilities used in the treatment or abatement of refinery effluent and waste.

IX. Exceptions:

The Board expressly reserves the right, after notice and hearing, to alter, amend, repeal, or grant exceptions to any and all of the foregoing rules and regulations.

X. Validity:

Should any section, subsection or other provision of this rule be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the rule as a whole or any part thereof, other than the part so declared to be invalid, this Board hereby declaring that it would have adopted those parts of this rule which are valid and omitted any parts which may be invalid, if it had known that such part or parts were invalid at the time of the adoption of this rule.