

RULES AND REGULATIONS

OF THE

NEBRASKA OIL AND GAS

CONSERVATION COMMISSION

INCLUDING

RULES OF PRACTICE AND PROCEDURE

AND

CHAPTER 57, REVISED STATUTES NEBRASKA

APPROVED ON

15 JUNE 2014

NEBRASKA OIL AND GAS CONSERVATION COMMISSION

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CHAPTER 1 – DEFINITIONS

- 001** **COMMISSION** shall mean the Oil and Gas Conservation Commission of the State of Nebraska.
- 002** **DIRECTOR** shall mean Director of the Oil and Gas Conservation Commission of the State of Nebraska.
- 003** **AUTHORIZED DEPUTY** or **AGENT** shall mean a representative of the Nebraska Oil and Gas Conservation Commission authorized by the Commission.
- 004** **BARREL** shall mean 42 (US) gallons at 60° F., at atmospheric pressure.
- 005** **CUBIC FOOT** of gas for reporting purposes shall be the volume of gas contained in one cubic foot of space at a standard pressure of 14.73 psia and at a standard temperature of 60° F.
- 006** **DAY** shall mean a period of twenty-four (24) consecutive hours.
- 007** **LOG** or **WELL LOG** shall mean a systematic detailed record of formations encountered in the drilling of a well.
- 008** **ACT** shall mean the Oil and Gas Conservation Act of the State of Nebraska.
- 009** **OIL WELL** shall mean a well, the principal production of which at the wellhead is oil as defined by the Act.
- 010** **GAS WELL** shall mean a well, the principal production of which at the wellhead is gas as defined by the Act and is not an oil well as defined above.
- 011** **WELL**, unless otherwise defined in these Rules and Regulations, shall refer only to an oil or gas well, or enhanced recovery injection or disposal injection well, or to a hole drilled for the purpose of producing oil or gas, or injecting fluids for enhanced recovery purposes or injecting wastes associated with oil and gas production, including salt water. It shall not include seismic, core or other exploratory holes drilled for the purpose of obtaining geological information.
- 012** **DESIGNATED AGENT**, when used herein, shall mean the designated representative of any oil or gas lessee, owner or operator.
- 013** The words **FIELD, POOL, PERSON, OWNER, PRODUCER, OIL, GAS, WASTE, CORRELATIVE RIGHTS** as defined by the Act apply in these Rules and Regulations.
- 014** **SPECIAL FIELD RULES** shall mean those rules promulgated for and limited in their application to individual pools or fields entirely or partially within the State of Nebraska.
- 015** **COMPLETION** or **RE-COMPLETION**. An oil well shall be considered completed when the first oil, exclusive of a quantity equal to any crude or refined oil injected into casing or formation as a part of the completion operations, is produced

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through wellhead equipment from the producing interval after casing has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the producing zone after casing has been run. A dry hole or nonproductive well shall be considered completed when all provisions of plugging are complied with as set out in these rules.

- 016 INITIAL PURCHASER** shall mean the purchaser having title to the oil or gas when it is first transported from the lease.
- 017 COMMINGLING IN THE WELL BORE** shall mean the production of more than one pool concurrently through a common well bore without segregation within the well bore of the pools exposed to production.
- 018 MULTIPLE COMPLETION** shall mean the completion of any one well in such a manner that each of two or more pools may be produced concurrently and independently through the same well bore and without commingling in the well bore of fluids produced from the various segregated pools.
- 019 FRESH WATER** means a source of water used for drinking water purposes, or water contained in an aquifer which contains less than ten thousand (10,000) parts per million total dissolved solids, unless the aquifer is exempted by the Director.
- 020 INACTIVE WELL** is classified as SHUT-IN when the completion interval is open to the tubing or to the casing. An inactive well is classified as TEMPORARILY ABANDONED when the completion interval is isolated.
- 021 DEQ** shall mean the Department of Environmental Quality of the State of Nebraska.
- 022 EXEMPT E&P WASTE** shall mean those exploration and production wastes exempted from hazardous waste regulation under the Resource Conservation and Recovery Act (RCRA).
- 023 SURFACE WATERS** shall mean all waters within the state, including all streams, lakes, ponds, reservoirs, and drainage systems. Surface waters do not include those areas designated as wastewater treatment ponds, irrigation reuse ponds, low-lying areas that retain water on a temporary basis and intermittent streams.
- 024 ALL OTHER WORDS** used herein shall be given their usual customary and accepted meaning; and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in said oil and gas industry.

Statute: 57-903; 57-904; 57-905; 57-917; 57-919; 57-920

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CHAPTER 2 – GENERAL RULES

001 **EFFECTIVE SCOPE OF RULES AND REGULATIONS**

All rules and regulations of a general nature herein promulgated to prevent waste and to conserve oil and gas in the State of Nebraska shall be effective throughout the State of Nebraska and be in force in all pools and fields except as they may be amended, modified, altered or enlarged generally or in specific individual pools or fields by orders issued by the Commission and except where special field rules apply, in which case the special field rules shall govern to the extent of any conflict.

002 **RIGHT TO INSPECT**

The Director and his authorized deputies shall have the right at all reasonable times to go upon and inspect any oil or gas properties and wells for the purpose of making any investigation or tests to ascertain whether the provisions of the statutes or these rules or any special field rules are being complied with, and shall report any violation thereof to the Commission.

003 **ACCESS TO RECORDS**

All producers, operators, drilling contractors, well service companies and initial purchasers of oil and gas within this 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 Commission. Such books, records and copies of said reports and notices required by the Commission shall be kept on file and available for inspection by the Director or his authorized deputies for a period of at least five (5) years. The Director and his authorized deputies shall have access to all well records wherever located. All owners or operators shall permit the Director or authorized deputy, at their risk, in the absence of negligence on the part of the owner, to come upon any lease, property or well operated or controlled by them, and to inspect the record and operation of such wells and to have access at all times to any and all records of wells; provided that information so obtained shall be kept confidential, unless the owner gives written permission to release such information, and shall be reported only to the Commission or its authorized deputies.

004 **REPORTS**

All producers, operators, drilling contractors, well service companies and initial purchasers of oil and gas within the State shall from time to time file such reports containing such information and covering such periods as the Commission shall require.

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005 TESTS AND SURVEYS

The Commission is authorized to require that special tests or surveys be made to determine physical waste of oil or gas. The Commission, in calling for reports under Rule 2-004 and tests or surveys to be made as provided in this Rule, shall designate the time allowed the operator for compliance, and which provisions as to time shall prevail over any other time provisions in these rules.

006 PROTECTION OF WATER-BEARING FORMATIONS

In the conduct of oil and gas operations, each owner shall exercise due care in the protection of water-bearing formations as required by the applicable statutes of the State of Nebraska.

Special precautions shall be taken in drilling and abandoning wells to guard against any loss of artesian water from the stratum in which it occurs and the contamination of potable water by objectionable water, oil or gas. 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 the intermingling of their contents.

007 CONVERSION TO WATER WELLS

In the case of a well which is capable of producing potable water which may be beneficially used by an individual or a community, the owner shall have the right to dispose of the well to responsible parties providing that written approval of the owner of the surface rights to the land on which the well is located is secured and filed with the Commission and written notice is given to the Director and approved by him subject to the approval of the Commission. A release from responsibility incurred by this action should be secured from the individual or community by the owner of the well and a copy of said release filed with the Director. The State Department of Natural Resources and Natural Resources District Offices should be consulted to determine if the water well that results is under the jurisdiction of said agencies.

008 WELL AND TANK BATTERY DESIGNATIONS

The operator shall mark each and every well in a conspicuous place, with operator name, name of lease, number of the well and legal description of the well and shall take all necessary means and precautions to preserve these markings.

The tank battery shall be marked with operator name, name of lease, legal description, and phone number.

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009 NAMING OF FIELDS

All oil and gas fields discovered in the State subsequent to the adoption of these rules and regulations shall be named by the Director or his authorized deputies.

010 FORMS UPON REQUEST

Forms required by the Commission will be furnished upon request and will be available for download on the commission website. Operators may reproduce forms required by the Commission, provided the blank forms are printed on an equivalent size, color and quality of paper.

Statute: 57-905

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001 RECORDS, REPORTS, NOTICES ---- GENERAL

Any required written notice of intention to do work or to change plans previously approved must be filed with the Director and must reach the Director or authorized deputies and receive approval before the work is begun; or such approval may be given orally, and if so given, shall thereafter be confirmed by the Director or authorized deputies in writing.

In the case of emergency, or any situation where the operations might be unduly delayed, any written notice required by these rules and regulations to be given the Director or authorized deputies may be given orally or electronically; and, if approval is obtained, the transaction shall be promptly confirmed by the operator in writing as a matter of record.

The owner shall keep and make conveniently available to the Director or deputies accurate and complete records of the drilling, re-drilling, deepening, plugging or abandoning of all wells, all other well operations and of all alterations to casing. These records shall show all formations penetrated, the quantity and quality of oil, gas or water in each formation tested, the grade, weight, size and landed depth of casing used in drilling each well on the lease premises and any other information obtained in the course of well operation. Such information shall be kept confidential for a period of one year from the date the geophysical logs are run if so requested.

Whenever a person has been designated as an operator by an owner or owners of a lease or well, such an operator may submit the reports as herein required by the Commission. If a producing well is sold by one company or person to another company or person, the Director shall be notified immediately of the change in ownership. Any and all reports submitted shall be submitted in writing or electronically.

002 FORM 1 - ORGANIZATION REPORT

Any person conducting operations subject to the jurisdiction of the Commission shall, upon demand by the Director, file an "Organization Report" with the Director in the manner and form approved by the Commission.

The designated Agent named by this form shall be a resident of Nebraska and shall be authorized to accept and be served with notices from the Commission.

Any changes in organization or changes of address of the Agent or termination of the Agent's authority shall be reported immediately by filing amended copies of Form 1 with the Commission.

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003 FORM 2 - NOTICE OF INTENTION TO DRILL OR RE-ENTER

Before any person shall commence operations for the drilling of any well, such person shall file with the Director a notice of such intent on Form 2 and must secure the approval of the Director or authorized deputy before proceeding with such operations. A copy of the approved Form 2 must be posted in a conspicuous place on the drilling rig.

The Director or authorized deputy must be notified at least twenty-four (24) hours in advance of the commencement of drilling activities.

Unless operations are commenced within one hundred eighty (180) days after date of approval, the approval to drill will become null and void.

If it is desired to revise an approved notice of intention to drill, an amended Form 2 must be filed with the Director for approval.

A fee, paid in advance, of two hundred dollars (\$200) per well and payable to the Nebraska Oil and Gas Conservation Commission must be remitted with Form 2. If it should become necessary for the Commission to contract for the plugging of an abandoned well through failure of the owner or operator to plug it satisfactorily, the costs of these plugging operations may be assessed against the operator or owner.

No permit fee is required for an injection well.

If for any reason an approved location is not drilled, the permit fee is nonrefundable but may be transferred to another location provided that the permit has not expired or has not been revoked.

The Commission shall have the authority to revoke a permit if the Commission finds that any fraud, deceit or misrepresentation was made to obtain the approval of said permit.

The Notice of Intention to Drill or Re-Enter shall be accompanied by an accurate plat showing the following information:

- Township, range, and section in which the well is to be located.
- North arrow.
- Scale of drawing expressed as a ratio.
- The longitude and latitude expressed in decimal degrees using NAD 83 standards.
- A description of all monuments found, set, reset or replaced, and notation of all distances measured between the corners used in establishing the section boundary in which the well is to be located.

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- Distances from the nearest established section boundary lines to the proposed well.
- Ungraded ground elevation of the proposed well.
- Basis of elevations.
- Basis of bearings.

004 FORM 3A – BOND

Prior to commencement of dirt work preceding drilling, or assuming operation of any well, the person, firm or corporation commencing said drilling or operation shall make, or cause to be made, and file with the Commission a good and sufficient bond in the sum of not less than ten thousand dollars (\$10,000) for each well or hole and payable to the State of Nebraska, conditioned for the performance of the duty to comply with all the provisions of the laws of the State of Nebraska and the rules, regulations and orders of the Commission. Said bond shall remain in force and effect until plugging of said well or hole is approved by the Director or authorized deputy, a new bond is filed by a successor in interest or the bond is released by the Director. It is provided, however, that any owner in lieu of such bond may file with the Director a good and sufficient blanket bond in the principal sum of not less than one hundred thousand dollars (\$100,000) covering all wells or holes drilling or to be drilled in the State of Nebraska by the principal in said bond; and upon acceptance and approval by the Director of such blanket bond, said bond shall be considered as compliance with the foregoing provisions requiring an individual well or hole bond.

The Director may refuse to accept a bond or add wells to a blanket bond if the operator or surety company has failed in the past to comply with statutes, rules or orders relating to the operation of wells; or for other good cause.

Any person required to file a surety bond pursuant to this rule may post cash or certificate of deposit in the amount required subject to the following conditions:

If a person posts cash, it may be in the form of a cashier's check, certified check or legal tender of the United States of America delivered to the Commission.

A certificate of deposit shall comply with the following:

- The certificate of deposit shall be in the name of the Nebraska Oil and Gas Conservation Commission and only the signature of the Commission's authorized representative shall be on the withdrawal card as the authorized signature to withdraw the deposit.

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- The certificate of deposit shall be in a bank or financial institution insured by the Federal Deposit Insurance Corporation and located in the State of Nebraska.
- The Commission may reject any certificate of deposit, when, combined with other certificates of deposit on that bank or financial institution, exceeds the limits of Federal Deposit Insurance Corporation insurance coverage.
- The certificate of deposit shall be in the custody of the Commission.
- The certificate of deposit shall be automatically renewable.
- Interest earned on the certificate of deposit is the property of the person who provided the money for it. The certificate of deposit and the money it represents is the property of the Commission until released by the Director.

Any person, other than the operator or owner of the well, engaged in pulling casing from abandoned oil or gas wells and wells used in connection therewith, or who purchases such wells for the purpose of salvaging material from the same, shall file with the Commission a ten thousand dollar (\$10,000) blanket bond to guarantee the ultimate plugging of these wells conformable with the rules, regulations or orders of the Commission.

The State Board of Educational Lands and Funds shall be contacted for bonding requirements on State Land, and the U. S. Bureau of Land Management should be contacted for additional bonding requirements on Federal Land.

005 FORM 4 - SUNDRY NOTICES

Notice must be given to the Director or his authorized deputy and approval obtained in advance of the time when the owner or operator expects to re-complete or abandon a well with the casing in the hole or to change previously approved plans. Within thirty (30) days after re-completion, abandonment, or change of plans, a detailed report of the work done and the results obtained shall be submitted on Form 5 or Form 6, whichever is appropriate.

006 FORM 5 - WELL COMPLETION OR RE-COMPLETION REPORT

Within thirty (30) days after completion or re-completion of an oil or gas producing well, injection or disposal well or a well temporarily abandoned with casing in the hole, the owner or operator shall transmit to the Director the well completion or re-completion report, Form 5. Upon written request geological information will be kept confidential for twelve (12) months after the filing thereof unless written permission to release the information at an earlier date is obtained from the operator.

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CHAPTER 3 – DRILLING, DEVELOPMENT, PRODUCING AND ABANDONMENT

007 FORM 6 - PLUGGING RECORD

If any well is plugged or abandoned, a record of work done must be filed on Form 6 with the Director within thirty (30) days after the work is completed. The report shall give a detailed account of the manner in which the abandonment or plugging work is carried out, including the nature and quantities of materials used in plugging and the location and extent (by depths) of the plugs of different materials; records of the amount, size and location (by depths) of casing and junk left in the well, and a detailed statement of the volume and weight of mud fluid used. Upon written request, geological information will be kept confidential for twelve (12) months after the filing thereof unless written permission to release the information at an earlier date is obtained from the operator.

008 FORM 7A - WELL STATUS AND MONTHLY PRODUCTION REPORT

Each producer or operator of an oil or gas well shall file, with the Director on or before the twenty-fifth (25th) day of each month succeeding the month in which the production occurs, a report on Form 7A, containing all information required by the form including disposition of the oil and gas produced.

009 FORM 8 - PRODUCTION TEST AND GAS-OIL RATIO REPORT

Gas-oil ratio tests, as required by the Commission under Rule 3-027, shall be reported on Form 8 within twenty (20) days after the test is made.

010 FORM 9A - RESERVOIR PRESSURE TEST REPORT

Sub-surface pressure tests, as may be required by the Commission, shall be reported on Form 9A within twenty (20) days after completion of tests.

011 MILL LEVY RETURN

Remitters of the State severance tax shall be responsible for the payment of the mill levy. The total mill levy remittance shall be determined by applying the then current mill levy rate to the total value of oil and gas.

012 GENERAL DRILLING RULES

Unless altered, modified or changed for a particular pool or pools, upon hearing before the Commission, the following shall apply to the drilling of all wells:

012.01 When drilling where high pressures are likely to exist, the operator shall take all reasonable precautions for keeping the well under control at all times and shall provide at the time the well is started proper high pressure fittings and equipment. Under such conditions, the conductor string of casing must be cemented throughout its length, unless other procedure is authorized by the Director or

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authorized agent, and all strings of casing must be securely anchored.

- 012.02 In areas where pressures and formations are unknown, sufficient surface casing shall be run to reach a depth below the base of formations generally contributing water supplies for domestic, agricultural and municipal use as well as water bearing formations reasonably expected to be utilized for domestic, agricultural and municipal use if not presently utilized. The amount of surface casing run shall be approved by the Director or authorized agent and sufficient to prevent blowouts and uncontrolled flows at reasonable depths and of sufficient size to permit the use of an intermediate string or strings of casing where necessary to control deeper blowout or uncontrolled flow sources. Surface casing shall be set in a relatively impervious formation and shall be cemented by the plug or displacement or other approved method with sufficient cement to fill the annulus to the top of the hole except in cases where unusually long strings of surface casing are required and approval is secured from the Director or his authorized agent to use other adequate methods of cementation.
- 012.03 In wells drilled in areas where subsurface conditions are known through drilling experience, surface casing shall be set at a depth approved by the Director or authorized agent and cemented to the surface by the pump and plug or displacement or other approved methods at a depth sufficient to protect all domestic, agricultural or municipal water supplies and to insure against blowouts or uncontrolled flows.
- 012.04 Cement shall be allowed to stand under pressure until the cement has reached a compressive strength of five hundred (500) pounds per square inch before drilling the plug. The term "under pressure" as used herein, will be complied with if one float valve is used or if pressure is otherwise held. All cement and cement additives used shall have been tested in accordance with API RP 10B-2 (R2010), "Recommended Practices for Testing Oil-Well Cements and Cement Additives," and the results reported to the Director prior to use.
- 012.05 In all proven areas, the use of blowout equipment shall be in accordance with the established practice in the area.
- 012.06 In areas where high pressures may be reasonably anticipated, all drilling wells shall be equipped with a master-gate or its equivalent, an adequate blowout preventer, together with choke and kill line or

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lines of the proper size and working pressure. The entire control equipment shall be in good working condition at all times.

012.07 If a well is deepened for the purpose of producing oil and gas from the lower stratum, such deepening to and completion in the lower stratum shall be conducted in such a manner as to protect all upper productive strata.

012.08 All wells shall be so drilled that the horizontal distance between the bottom of the hole and the location at the top of the hole shall be at all times at a practical minimum.

012.09 If and when it becomes necessary to run a production string, such production string shall be cemented by the pump and plug method.

012.10 By approved reasonable methods, the operator shall shut off and exclude all alien water from any oil or gas bearing stratum; and to determine the effectiveness of such operations, the operator shall make a casing test before suspending drilling operations or drilling into the oil or gas bearing stratum and completing the well.

012.11 Before commencing to drill, proper and adequate pits shall be constructed for the reception and confinement of mud and cuttings. Reserve pits used in the drilling and completion of oil and gas wells shall be designed and constructed to protect the surface and the waters of the state from pollution.

For all reserve pits the minimum criteria shall be as follows:

- Minimum of two (2) foot freeboard is required.
- All topsoil shall be stockpiled on or adjacent to the location and be used for reclamation after drilling operations have been completed when practical.
- Reserve pits shall not contain, at anytime, any non-exempt E&P waste.

The Commission may administratively approve field-wide or area-wide applications covering drilling reserve pit design and construction.

012.12 For those reserve pits located within one-half (1/2) mile of surface waters of the state, the operator shall meet the requirements set forth in Section 012.11. Additionally, an application filed with Form 2 shall include:

- Drilling location layout plan.

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- Pit size.
- Type of mud program.
- Anticipated time pit will be in use.
- Scaled topographic map showing the surface drainage and distance to any lakes, rivers, streams or springs.

012.13 If salt based or oil based muds are used during the drilling program or if a salt section of sufficient thickness to affect the mud quality is anticipated, then the reserve pit design and construction shall meet the requirements of this rule and an application shall be submitted along with Form 2 for approval. Minimum design criteria shall be as follows:

- Steel working tanks will be required on the drilling rig circulating system.
- Reserve pits shall be designed to accommodate those fluids while protecting the lands and waters of the state.
- Soil mixture liners, recompacted clay liners and manufactured liners must be compatible with the wastes contained.
- The application shall include the type and specifications of the liner to be used. All liners constructed of manufactured materials must meet or exceed the specifications set forth by the Commission.
- Synthetic liners must be installed over smooth fill sub-grade which is free of pockets, loose rocks, or other materials which could damage the liner. Sand, sifted dirt, or bentonite are suggested as cushion material if needed.
- The application shall contain a plan for disposal of liquids and solids.
- Liner edges must be secured to prevent wind damage.

The Director or authorized agent may authorize alternative methods upon review of the application.

012.14 All pits shall be backfilled within one year after completion of drilling operations.

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The disposal of drilling fluids, stimulation fluids or any oil field waste into any well shall be prohibited unless approved by the Director prior to disposal.

Within thirty (30) days after cessation of drilling operations, non-exempt E&P waste materials including but not limited to crankcase oil shall be contained in non-leaking containers and disposed of in accordance with DEQ or any applicable federal regulations.

In those areas where acceptable, and upon application and approval, land farming or land spreading of fresh water based drilling mud may be allowed on the lease with the written permission obtained from the landowner and submitted to the Director.

012.15 After the reserve pits have been properly backfilled, a biodegradable mulch may be required if soil erosion or the establishment of vegetation is determined to be a problem by the Director or authorized agent.

013 LOCATION OF WELLS

013.01 No well drilled for oil or gas in or adjacent to presently producing pools shall be drilled at a location within a legal subdivision which varies substantially from the established locations within legal subdivisions of a majority of the wells in the pool or which will result in a spacing unit for such wells substantially different from that attributable to the established wells in the pool.

013.02 All wells drilled to sources of supply at estimated depths in excess of two thousand five hundred (2500) feet for which no spacing pattern has been established by existing wells shall be drilled on 40-acre legal subdivisions or equivalent lots and not less than five hundred (500) feet from the boundaries of said legal subdivisions. The Director or authorized agent may administratively approve an exception to the requirements hereof where topographical conditions, irregular sections or geological conditions make the drilling of a well at the regular location impractical, provided that the owners, as defined in the Act, within a distance of five hundred (500) feet from the proposed well file with the Director or authorized agent a waiver of objection, or consent in writing, agreeing to said exception; provided further, that a well drilled under the terms of such waiver, or consent, shall be subject to such production limitations as may be necessary to protect correlative rights.

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- 013.03 All wells drilled to sources of supply at estimated depths of two thousand five hundred (2500) feet or less for which no spacing pattern has been established by existing wells shall not be drilled closer than three hundred (300) feet from the boundaries of a 40-acre legal subdivision or equivalent lot.
- 013.04 Upon the receipt, by the Commission, of an application from any person requesting the establishment of special field rules for spacing of wells within a designated area, all or a portion of which is not then subject to special field rules, or upon decision by the Commission to call a hearing for the establishment of such special field rules, application for permits to drill within such area will be held in abeyance by the Commission until such time as the matter has been fully heard and determined; and no further permits to drill within the area designated in the application shall be issued until such determination has been made. Notwithstanding the provisions above, a permit shall be issued if an owner demonstrates to the satisfaction of the Director that a loss of his leasehold will result or that significant drainage may occur if approval of drilling is withheld. However, in event a permit is issued, the permit to drill shall authorize a location for the proposed well which conforms as nearly as practicable to the pattern proposed in each application or petition then on file with the Commission for spacing within the designated area.
- 013.05 The foregoing spacing restrictions shall not apply to approved unit operations or authorized secondary recovery projects or to any field where the Commission, after notice and hearing, ordered a different spacing pattern in special field rules.

014 DIRECTIONAL DRILLING

When the intent is to direct the bottom of the hole away from vertical, other than whipstocking necessitated by hole conditions, and the spacing pattern is not altered thereby, notice of intention to do so shall be filed with the Director or authorized agent and approval obtained before beginning controlled directional drilling operations. Such notice shall state clearly the depth, exact surface location of the well bore, proposed direction deviation and proposed horizontal distance between the proposed bottom of the hole and the surface location. If approval is obtained, the operator shall file with the Commission within thirty (30) days after the completion of the work an accurate and complete copy of the directional survey made.

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015 RE-DRILLING OR DRILLING DEEPER

When a well is re-drilled or drilled deeper by the original operator, the operator shall advise the Director or authorized agent of their intentions by filing Form 4 and stating thereon the proposed work to be done and the anticipated results of the work.

If the re-drilling or drilling deeper is to be done by anyone other than the original operator, they shall file Form 2 and the two hundred dollar (\$200) permit fee and state on the form that this well is to be re-drilled or drilled deeper.

Upon completion of the work Form 5 shall be filed if the well is an oil or gas producer, injection or disposal well, or shut-in with casing in the hole. If the well is a dry hole, Form 6 shall be filed. Copies of any logs and tests made should accompany these forms.

016 COMMINGLING IN ONE WELL BORE

The production of oil and gas, or either of them, from more than one pool from one well without segregation of such production as to pool is hereby prohibited unless otherwise authorized or permitted by order of the Commission pursuant to appropriate hearing.

017 MULTIPLE ZONE COMPLETIONS

The initial multiple zone completion of a well in a given field may be permitted by submitting an application therefore to the Commission and securing its order of approval thereof pursuant to an appropriate hearing. The application shall be accompanied by an exhibit showing the location of all wells on adjacent premises and all offset wells on adjoining lands and shall set forth all material facts involved and the manner and method of completion proposed. Thereafter, similar multiple zone completions in said field may be approved by the Director, if so authorized by the Commission, upon request therefore. Such requests shall also be accompanied by an affidavit showing that notice of intention to file such request has been given to the owners, as defined in the Act, of all tracts located within a radius of one-half (1/2) mile of the well in which the multiple zone completion is to be attempted. The Director may require such tests as he deems necessary to determine the effectiveness of the segregation of the different pools.

018 MEASUREMENT OF OIL

The volume of production of oil shall be computed in terms of barrels of clean oil on the basis of properly calibrated meter measurements or tank measurement of oil level differences made and recorded to the nearest quarter

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inch, using one hundred (100) percent tank capacity tables, subject to the following corrections:

- 018.01 Correction for Impurities - The percentage of impurities (water, sand and other foreign substances not constituting a natural component part of the oil) shall be determined to the satisfaction of the Director, and the observed gross volume of oil shall be corrected to exclude the entire volume of such impurities.
- 018.02 Temperature Correction - The observed volume of oil corrected for impurities shall be further corrected to the standard volume at 60° F. in accordance with A.S.T.M. D-1250 Table 6, dated 1956, reapproved 1973.
- 018.03 Gravity Determination - The gravity of oil at 60° F. shall be determined in accordance with A.S.T.M. D-1250 Table 5, dated 1956, reapproved 1973.

019 MEASUREMENT OF GAS

Production of gas of all kinds, with the exception of gas used on the lease and small amounts of gas produced with oil, as excepted by the Director, shall be measured by orifice type meter or other type meter approved by the Director. The standard of pressure shall be 14.73 pounds per square inch absolute and the standard of temperature shall be 60° F., regardless of the atmospheric pressure and temperature at the point of measurement. All volumes of gas to be reported to the Commission shall be adjusted by computation to these standards unless otherwise authorized by the Director.

020 CONTROL OF "WILD" WELLS

The operator shall take reasonable precautions to prevent any oil, gas or water well from blowing open or "wild" and shall take immediate steps and exercise due diligence to bring under control any such well or burning oil or gas well.

021 DISPOSAL OF GAS

Gas produced in connection with the production of oil shall be flared and burned where there is no market at the well or use on the lease for such gas. The operators of gasoline plants operated for the extraction of liquid hydrocarbons from the gas shall burn the residue gas in flares where no market exists at such plant for the residue gas or when the gas is not returned to an oil pool or field for pressure maintenance or repressuring of the oil pool or field.

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022 POLLUTION AND SURFACE DRAINAGE

Operators shall take all reasonable precaution to avoid polluting streams, underground water and land surface and soils. No oil, salt water, brackish water or other water unfit for domestic, livestock, irrigation or other general use shall be allowed to flow over the surface or into any stream or underground fresh water zone.

022.01 Spill Reporting Requirements

Any person operating any well, flow lines, receiving tanks, storage tanks, or receiving and storage receptacles into which crude oil or salt water is produced, received, or stored or through which oil or produced water is piped or transported shall notify the Director within two (2) business days of any oil and/or produced water spill, leak, or release in excess of twenty (20) barrels. The notice shall be followed within seven (7) working days by a written report. All such reports of breaks, leaks, and spills shall identify the location of the well, tank, receptacle or flow line by section, township, range, and property name so that the exact location may be readily located. Such report shall specify what steps have been taken or are in progress to remedy the situation reported and shall estimate the quantity of oil and/or produced water lost, or permitted to escape.

The operator shall immediately notify the appropriate State and Federal agencies of any oil or produced water spill, leak, or release which enters any surface or ground water or flows off the lease or unit lands.

022.02 Cleanup Standards for Crude Oil Spills

Cleanup standards set forth in this section apply to only exempt E&P spills that do not: escape off the lease or enter any surface or ground water. For all other spills operators shall notify all appropriate State and Federal agencies.

022.03 Requirements for Cleanup

Removal of Free Oil - To prevent waste and to minimize the depth of oil penetration, all free oil must be removed immediately for reclamation.

Excavation - All soil containing over one (1) percent by weight total petroleum hydrocarbons must be remediated or disposed of at an authorized disposal site.

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Prevention of Stormwater Contamination - To prevent stormwater contamination soil excavated from the spill site containing over five (5) percent by weight total petroleum hydrocarbons must be:

- Mixed with clean soil to a mixture of less than five (5) percent, or
- Removed to an authorized disposal site, or
- Contained on secure location for future remediation.

The operator may select any technically sound method for remediation of soil.

022.04 Final Cleanup Level

The Commission shall have final authority to determine if remediation has achieved a cleanup level of less than one (1) percent by weight total petroleum hydrocarbons. Cleanup shall be completed as soon as technically feasible.

022.05 Remediation Reporting Requirements

For each spill exceeding twenty (20) barrels of crude oil, the operator must submit on a Form 4 a report to the Commission which shall give the following information:

- A detailed description of the disposal or remediation method used.
- The estimated date of completion of the site cleanup.
- Area, maximum depth and volume in cubic yards of soil affected by crude oil.
- A statement signed by the operator stating that all affected soils have been treated and the surface landowner has been notified.

022.06 Crude Oil Spills of Twenty (20) Barrels or Less

Spills into the soil of twenty (20) barrels or less of crude oil must be remediated to these standards, but are not required to be reported to the Commission.

022.07 Cleanup Standards for Produced Water Spills

Cleanup standards set forth in this section apply to only exempt E&P spills that do not:

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- escape off the lease, or
- enter any surface or groundwater.

For all other spills operators shall notify the appropriate State and Federal agencies.

022.08 Standards set forth in this section do not include those produced waters released under the terms of a valid National Pollutant Discharge Elimination System (NPDES) permit.

022.09 Requirements for Cleanup

Removal of Free Water - To minimize the depth of produced water penetration, all free water must be removed for disposal.

Establish Containment Systems - To minimize the extent of the affected area, temporary dikes, pits, or tanks should be used.

The operator may select any technically sound method for remediation of affected soil.

022.10 Final Cleanup Level

The Commission shall have final authority to determine if the effected land has been restored to its prior beneficial use. Cleanup shall be completed as soon as technically feasible.

022.11 Remediation Reporting Requirements

For each spill exceeding twenty (20) barrels of produced water, in which the water spilled exceeds ten thousand (10,000) parts per million total dissolved solids, or a spill exceeding two hundred (200) barrels of produced water, in which the water spilled contains less than 10,000 parts per million total dissolved solids, the operator must submit on a Form 4 a report to the Commission which shall give the following information:

- A detailed description of the disposal or remediation method used.
- The estimated date of completion of the site cleanup.
- Area, maximum depth and volume in cubic yards of soil affected by produced water.
- A statement signed by the operator stating that all affected soils have been treated and the surface landowner has been notified.

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022.12 Produced Water Pits

No person shall construct or operate a pit or pond to retain produced water without first filing an application for a permit on Form 15, RETAINING PIT PERMIT, and obtaining approval from the Director. Permit numbers shall be displayed on a weatherproof sign along with the name of the operator and lease at the pit site. Pits or ponds used to evaporate or retain water which were in existence prior to the effective date of this rule must be re-permitted within one year after the effective date of this rule.

If inspection indicates that the facility no longer meets the requirements of this rule, the use of the facility shall cease.

Upon application, an exception to the construction and operational requirements of Section 022.12 may be granted by the Director upon showing that the pit design, in consideration of geologic and hydrodynamic conditions, will protect water, soils, wildlife, and migratory birds.

022.12A All pits or ponds used to retain produced water shall:

- Be constructed in cut material or at least fifty (50) percent below original ground level.
- Be lined with a material compatible with the waste contained.
- Not be located in a natural drainage and shall be constructed above the seasonal high water table.
- Be bermed or diked and shall have at least two (2) feet of freeboard between the normal operating level of the water in the pit and the top of the banks, dikes or berms.
- Be fenced, screened, or netted to prevent access by livestock, wildlife and migratory birds if free oil is likely to be discharged to the pits.
- Not be used for the dumping of any wastes other than produced water.
- Approved monitoring systems may be required if a pit is located in an area that the Commission can reasonably define as environmentally sensitive.

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022.12B Unlined evaporation pits shall be allowed for produced waters containing less than ten thousand (10,000) milligrams per liter total dissolved solids. Unlined evaporation pits that receive less than five (5) barrels per day on a monthly average shall be allowed when it can be shown that the pit will not impact water, soils, wildlife and migratory birds.

022.12C Pit Lining Requirements

The application for a lined pit submitted on Form 15 shall include the type and specifications of the liner to be used. All liners constructed of manufactured materials must meet or exceed the specifications set forth by the Commission.

Soil mixture liners, recompacted clay liners and manufactured liners must be compatible with the waste contained. The operator must provide evidence of the chemical resistance of the liner selected for use.

Manufactured liners must be installed over smooth fill subgrade which is free of pockets, loose rocks, or other materials which could damage the liner. Sand, sifted dirt, or bentonite are suggested as cushion materials if needed. At no time shall any organic material, except synthetic cushion fabric designed for that purpose, be used for a liner cushion.

Liner edges must be secured to prevent wind damage.

If a lined pit does not have an approved monitoring system, then it shall be drained, cleaned and inspected for leaks or holes each year.

The Director may grant an exception to this pit lining requirement where, the operator shows that due to the surface or subsurface geology, the uses of the known sources of groundwater, the permeability of the surrounding soils, or similar consideration, the known sources of underlying groundwater will not be adversely impacted.

022.12D All retaining pits shall be kept free of surface accumulations of oil and other hydrocarbon substances

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and shall be cleaned within ten (10) days after the discovery of the accumulation by the operator or notice from the Commission, unless weather conditions or other conditions, as approved by the Commission, do not allow such removal within the time frame specified. In the event such removal is delayed by weather or other factors, the operator will notify the Commission on Form 4 within ten (10) working days of the operator noticing said accumulation, or of Commission notification. The notification will include an estimated time table during which the problem can be practically corrected, in an approved manner.

022.12E This rule shall not apply to pits used in conjunction with drilling or reworking operations under a valid permit to drill unless such pit is used after the cessation of the drilling or reworking operations.

022.12F Produced water may be discharged into pits, onto land, or into other water sources if the operator has a valid discharge permit issued under the National Pollutant Discharge Elimination System (NPDES). The operator shall file a copy of the NPDES permit with the Commission.

022.13 Temporary Emergency Pits and Flare Pits - Operators must file a Form 15 for approval of these facilities. These pits shall be exempt from the construction and monitoring requirements of this section.

Production fluid may not be retained for more than seventy-two (72) hours in any unlined pit prior to disposal.

022.14 Pit closure must be done in accordance with a preapproved plan which must be submitted on a Form 4.

Verbal notice twenty-four (24) hours prior to closure is required to provide the Commission the opportunity to witness the closure procedure.

If closure plans or treatment procedures have changed from the original proposal, then a Form 4 must be resubmitted. Any wastes disposed of off-lease must be transported to an authorized disposal site.

Pit solids showing high concentrations of salt (exchangeable sodium percentage above fifteen (15) by weight) must be

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encapsulated or chemically or mechanically treated or removed and disposed of in an authorized disposal site.

Oil that may be present must be removed and recycled by commercially available utilized conventional means as soon as the weather permits or disposed of in an authorized disposal site or mixed with soil to less than one (1) percent oil content by weight when road spread, or land farmed.

Dispersants, wetting agents, surface reduction agents, surfactants or other chemicals that destroy, remove or reduce the fluid seal of a pit and allow the fluids therein to seep, drain or percolate into the soil underlying the pit are prohibited.

Pits cannot be used for disposal of refuse, equipment parts or unused chemicals. Proper closure of the pit is compromised by the inappropriate use of the pit for trash disposal and may result in the revocation of the permit.

022.15 After the pits have been properly backfilled, a biodegradable mulch may be required if soil erosion or the establishment of vegetation is determined to be a problem by the Director.

022.16 No water produced in association with oil or gas production shall be transported from the lease of origin for disposal or used for road building without authorization of the Director.

022.16A Every person that transports water produced in association with the production of oil or gas shall possess a run ticket or equivalent documents containing the following:

022.16A1 The name and address of the transporter.

022.16A2 The name of the operator of the lease of origin.

022.16A3 The location of the lease tank battery by section, township, range and county.

022.16A4 The location of the destination by section, township, range and county.

022.16A5 The date and time the fluids were loaded for transportation and unloaded at the destination.

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- 022.16A6 The estimated volume of fluids, or the opening and closing tank gauges or meter readings.
- 022.16A7 The signature of the driver.
- 022.16B One copy of the documentation shall be left at the facility from which the water was loaded for transportation.
- 022.16C One copy of the documentation shall be carried in the vehicle during transportation and shall be produced for examination and inspection by any agent of the Commission or any authorized law officer upon request.
- 022.16D All persons that store, possess, or dispose of water produced in association with the production of oil or gas shall retain a record reflecting a complete inventory, including detail of the acceptance and disposition of the fluids for a period of at least five (5) years.

023 BURN-OFF PITS

To prevent fire hazards from waste oil, the same shall be collected in burn-off pits which shall be located a safe distance from oil storage tanks, buildings, or other structures and shall be burned as often as necessary to prevent overflowing. Such pits shall be constructed to prevent the escape of oil therefrom and shall have a continuous wall completely surrounding the pit of sufficient height to prevent surface water from running into the pit. Earthen pits will be permitted at locations where the soil is heavy and tight, but shall be prohibited in locations where the soil is porous and closely underlain by either sand or gravel strata, unless effectively sealed to the satisfaction of the Director.

024 LEASE TANK RESERVOIRS AND FIRE HAZARDS

All oil storage and lease tanks must be surrounded by an earthen dike which shall provide a capacity of one and one-tenth (1-1/10) times the capacity of the largest tank it surrounds.

All well and tank locations shall be kept free of dead grass, brush, weeds and other inflammable material and so maintained at all times.

025 OPEN PIT STORAGE OF OIL

The operator shall not, except during an emergency or except by special permission of the Director, permit oil to be temporarily stored or retained in earthen reservoirs or in any other receptacle that may introduce an accident or fire hazard.

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026 SUB-SURFACE PRESSURE TESTS

The Director may require sub-surface pressure measurements on a sufficient number of wells in any pool to provide adequate data for establishing maximum efficient rates of production (M. E. R.). Whenever a sub-surface pressure measurement is to be made in a well, such well shall remain completely shut-in for at least twenty-four (24) hours prior to the test. Tests may be witnessed by representatives of the offset operators.

027 GAS-OIL RATIO TESTS

Within thirty (30) days following the completion or re-completion of each well producing oil and gas and thereafter as the Director may require the operator of such well shall make a gas-oil ratio test of such well; and the results of such test shall be reported to the Commission within twenty (20) days after the test is made. Certain wells may be excepted from this rule by the Director upon written request.

028 PLUGGING

The requirements for plugging a well shall be as follows:

- 028.01 A dry or abandoned well must be plugged in such a manner that oil, gas, water or other substance shall be confined to the reservoir in which it originally occurred. The material used in plugging, whether mud-laden fluid, cement, mechanical plug or some other suitable material, must be placed in the well in a manner to permanently prevent migration of oil, gas, water or other substance from the formation or horizon in which it originally occurred.
- 028.02 The operator shall have the option as to the method of placing cement in the hole by (1) dump bailer, (2) pumping through tubing or drill pipe, (3) pump and plug or (4) other method approved by the Director or authorized deputy.
- 028.03 No substance of any nature or description other than that normally used in plugging operations shall be placed in any well at any time during plugging operations.
- 028.04 In order to protect the fresh water strata, no surface casing shall be pulled from any well unless authorized by the Director.
- 028.05 Before a dry hole is plugged, the operator shall notify the office of the Director or his authorized deputy.
- 028.06 Before a producing well, or any well with production casing in the hole, is plugged, the operator shall notify the office of the Director by submitting Form 4, "Sundry Notices." Operator shall fully describe

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the proposed plugging and abandonment procedure on said form and shall set out the volume and position of each plug to be placed in the hole and the manner in which said plug will be positioned. A fee, paid in advance, of one hundred dollars (\$100) and payable to the Nebraska Oil and Gas Conservation Commission must be remitted with each Form 4 which gives notice of operator's intention to abandon a well with production casing in the hole.

028.07 Operations must commence to plug and abandon each well within one year of the date of the Director's approved Form 4 or the operator must reapply. Any well that is not plugged and abandoned within one year will be considered to have a status of shut-in.

028.08 Following abandonment, working pits, reserve pits and/or burn pits shall be backfilled, pads leveled, debris removed or buried and land restored to the reasonable satisfaction of the Director.

029 PLUGGING OF SEISMIC AND STRATIGRAPHIC TESTS

It shall be the duty of any person, operator or contractor drilling a seismic or stratigraphic test hole, regardless of diameter or depth, whether cased or uncased, to plug said hole in a manner sufficient to properly protect all fresh water bearing and possible or probable oil or gas bearing formations.

030 LIABILITY

The person who drilled or caused to be drilled any well for oil or gas or any seismic, core or other exploratory hole, whether cased or uncased, shall be liable and responsible for the plugging thereof in accordance with the rules and regulations of the Commission.

031 WELL LOGS AND SAMPLES

All wells drilled for oil and/or gas shall be adequately logged with appropriate mechanical, electrical, or radiation survey devices unless excepted by the Director. If adverse down hole conditions exist which makes the running of adequate survey devices impractical or hazardous, or in the case of open hole completions, twin wells, or other good cause shown, the Director may waive such required survey upon request by the operator.

Logs shall be submitted as one unmarked paper copy, one digital PDF or TIFF (Tagged Image File Format) or digital LAS, or a format approved by the Director of the mechanical, electrical, or radiation survey log, clearly indicating the position of the shoe of the surface casing and including the entire logged interval below the shoe of the surface casing, shall be submitted to the office of the Director within thirty (30) days after such log is run. If an extension of thirty

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(30) days is needed for filing survey logs, the Director may grant such extension for good cause shown.

Upon written request by the operator, logs of a confidential nature will be held confidential for a period of not more than twelve (12) months. The Director may release such confidential data to health care professionals, emergency responders and public health regulators if the Director deems it is necessary to protect the public's health, safety and welfare.

A driller's log is to be submitted for wells drilled with cable tools. Drill stem tests, copies of other surveys and tests such as core analysis, water analysis, and mud logs, if taken, and the information there from will be submitted on all wells drilled. Any survey or tests conducted by the operator shall be maintained in his files for a period of at least two (2) years. Drilling contractors and well service companies shall maintain a file of surveys and tests conducted for a period of not less than five (5) years for all work performed on any well drilled under the rules and regulations of the Commission.

By agreement with the State Geologist, the Commission will notify operators when samples of a well are requested by the Nebraska Geological Survey. When indicated on Form 2, a systematic interval of sample cuttings shall be saved and submitted to the Nebraska Geological Survey in accordance with their request within ninety (90) days following completion or deepening of a well. When requested in writing, samples shall be kept confidential by the Nebraska Geological Survey for a period of not more than twelve (12) months. Samples submitted may be sent through a recognized sample cutting agency or sent directly to the Nebraska Geological Survey, Conservation and Survey Division, School of Natural Resources, University of Nebraska, Lincoln, Nebraska.

032 SEISMIC AND STRATIGRAPHIC TESTS

Before any person shall commence operations for the drilling of any seismic hole, such person shall file with the Director an accurate plat of all such holes, the proposed depths and the date such operations are expected to commence. The Director or authorized agent shall approve the method used to plug such holes. No permit fee shall be required.

Wells drilled as stratigraphic type test holes shall come under these rules and regulations with the following exceptions: No fee shall be required for the drilling of a stratigraphic test hole, but Form 2, "Notification of Intent to Drill or Re-Enter," shall be filed with the Director and approved by him prior to the drilling of each test or hole. Locations may be approved within three hundred thirty (330) feet of legal subdivision lines, but estimated total depths do not have to be included in notifications. Records, plugging affidavits and logs do not have to be filed with the Commission except within a period of six (6) months after

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completion of drilling. In the case of a series of wells drilled as a part of a single investigational program, records, plugging affidavits and logs may be filed with the Commission within six (6) months after completion of the last test hole drilled providing that the Director is informed of the approximate number of tests to be included in the program and that the period of not more than thirty (30) days separate the completion of one test and the commencement of the next test. Special permission for time extension between drilling of successive test holes may be granted by the Director or his authorized deputy for justifiable reasons.

Upon written request by the operator, all records, plugging affidavits, logs, plats and geologic information will be held confidential for a period not to exceed one (1) year.

The operator or drilling contractor shall maintain an accurate map or plat of all shallow exploratory, stratigraphic or seismic holes for a period of at least five (5) years after completion of a program, and all holes shall be satisfactorily plugged.

033 LIMITATION OF PRODUCTION

Whenever the Commission, after notice and hearing, finds that waste as defined in the Act, is occurring in any oil or gas field or pool and that the production of oil or gas from such field or pool should be limited to prevent waste, then the Commission shall issue an order limiting production from such field or pool and specify rules applicable thereto for the allocation or distribution of allowable production therefrom as provided for in the Act.

034 MAXIMUM EFFICIENT RATE HEARINGS

The Commission, on its own motion may, or at the request of any interested party shall call hearings to determine the maximum efficient rate at which any pool in the State can produce oil and gas without waste.

035 SPACING UNITS

The Commission may upon its own motion or upon the motion of any interested party and after notice and hearing establish spacing units of a specified and approximate uniform size and shape for each pool within this State.

036 FORM 11 - REPORT OF INJECTION PROJECT

Operators of pressure maintenance, secondary recovery projects or produced water disposal wells shall file a report on Form 11 on or before the twenty-fifth (25th) day of each month succeeding the month in which the injection occurs.

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037 FORM 12 - REPORT OF PACKER LEAKAGE TEST

Operators of wells which are completed to produce oil and/or gas from two or more reservoirs through a common well bore, while segregating the production from each respective reservoir with a packer set in the well bore, shall conduct packer leakage tests immediately following the multiple completion of such wells and thereafter as the Director may require. The results of packer leakage tests shall be reported on Commission Form 12 within twenty (20) days following completion of the test.

038 FORM 13 – RELEASE

Operators may utilize Form 13 in securing a release of further plugging responsibility when a well thought capable of producing water for agricultural, domestic, industrial, or municipal use is disposed of as authorized by Rule 2-007.

039 FORM 14 - AUTHORIZATION TO TRANSPORT OIL AND/OR GAS FROM LEASE

Before any oil and/or gas may be sold, removed or transported from any unit or lease by any person, the owner shall file with the Director Form 14 - AUTHORIZATION TO TRANSPORT OIL AND/OR GAS FROM LEASE - and must secure the Director's approval before proceeding with the sale, removal or transporting of any oil and/or gas which authority shall be effective until further notice or until revoked by the Director. No purchaser shall buy, remove or transport any oil and/or gas from any unit or lease until he has received an approved copy of Form 14. The Director shall revoke said authority if it is found that any fraud, deceit or misrepresentation was made to obtain the approval of said authority, or if any operator is in violation of any rule, regulation or order of the Commission. Said operator may apply for a new permit at any time said operator is in compliance with Sections 57-901 through 57-921, Revised Statutes Nebraska, 1943, and all rules and regulations and orders of the Commission. A new well is exempt from this rule for a period of thirty (30) days following completion.

040 INACTIVE WELLS

Whenever operations cease for a period of sixty (60) days on any well, the operator shall give notice to the Commission of the change to inactive status.

040.01 If it is deemed necessary to prevent migration of oil, gas, water or other substances from the formation or horizon in which it originally occurred, the well shall be plugged or repaired. If the operations on any such inactive well are not resumed within a period of one (1) year after the notice has been given, the operator of the well shall plug and abandon the well in the manner prescribed by the Director.

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However, upon application prior to the expiration of the one (1) year period, and for good cause shown, the Director may extend the period for one (1) year, provided that the static fluid level is established and maintained at least one hundred fifty (150) feet below the lowest fresh water zone, or the casing is pressure tested to at least three hundred (300) pounds per square inch as measured at surface to prove mechanical integrity.

040.02 Application for inactive well status must be submitted on a Form 4 and contain the following information:

- The type of well.
- The bottom hole assembly.
- Pressures as measured by gauge for:
 - Tubing.
 - Production casing annulus.
 - Surface casing annulus.
- Static fluid level as measured from ground level.
 - Method used to determine static fluid level.
 - Date data was obtained.
- Information stating if any formations with reservoir pressures high enough to initiate flow into the lowermost freshwater aquifer exist.

040.03 An additional one (1) year extension(s) may be granted in the same manner.

040.04 FEE FOR INACTIVE WELL

A yearly fee will be collected for each well that is inactive for two or more consecutive years. The operator will submit a fee for each well requested for inactive status. The fee structure is as follows:

<u>Inactive Period, Year(s)</u>	<u>Fee</u>
0 to 2	\$ 0/Year
2 or more	\$200/Year

The funds shall be used at the discretion of the Commission and the collection of fees may be reduced to five dollars (\$5.00) per well at

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the discretion of the Director if previously collected funds prove sufficient to carry out the purposes of the Well Plugging and Abandonment Trust Fund.

Statute: 57-905; 57-906; 57-907; 57-908; 57-919; 57-923

041 WELL STIMULATION ACTIVITIES COVERED BY DRILLING PERMITS

Well completions which include hydraulic fracturing, acidizing, or other chemical stimulations done to complete a well are considered permitted under the drilling permit for that well.

042 HYDRAULIC FRACTURING

New and existing wells which will be stimulated by hydraulic fracturing must demonstrate suitable and safe mechanical configuration for the stimulation treatment proposed.

042.01 Prior to the initiation of fracture stimulation, the operator must evaluate the well. If the operator proposes stimulation through production casing or through intermediate casing, the casing must be tested to the maximum anticipated treating pressure. If the casing fails the pressure test, it must be repaired or the operator must use a temporary casing/tubing fracturing string.

042.02 If the operator proposes fracturing through a temporary casing/tubing string it must be stung into a liner or run on a packer set not less than one hundred (100) feet below the cement top of the production or intermediate casing and must be tested to not less than maximum anticipated treating pressure.

042.03 Casing/tubing pressure test will be considered successful if the pressure applied has been held for ten (10) minutes with no more than a ten percent pressure loss.

042.04 Maximum treating pressure shall not exceed the test pressure determined above.

042.05 The surface casing valve must remain open while hydraulic fracturing operations are in progress. The annular space between the fracturing string and production casing must be monitored and may be pressurized to a pressure not to exceed the pressure rating of the

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lowest rated component that would be exposed to pressure should the fracturing string fail.

043 **DISCLOSURE OF WELL STIMULATION FLUIDS**

Within sixty (60) days of the hydraulic fracture stimulation is performed, the operator shall post on the FracFocus Chemical Disclosure Registry (FracFocus.org) all the elements made viewable by the FracFocus website.

Statute 57-905(4)(b)

044 **PROPRIETARY CHEMICALS AND TRADE SECRETS**

Where the formula, pattern, compilation, program, device, method, technique, process or composite of a chemical product is proprietary to the owner or operator, or service company and would if disclosed reveal methods or processes entitled to protection as trade secrets, such as a chemical, need not be disclosed to the Director or staff unless:

044.01 If necessary to respond to a spill or release of a trade secret product, the operator or service company must provide to the Director upon request a list of the chemical constituents contained in a trade secret product. The Director may request information be provided orally directly to a laboratory or other third party performing analysis for the Commission. Commission staff and any third parties receiving trade secret information on behalf of the Commission may be required to execute a nondisclosure agreement.

044.02 The operator or service company must provide the chemical constituents of a trade secret to a health professional who provides a written statement that knowledge of the chemical constituents of such product is needed for purposes of diagnosis or treatment of the individual being diagnosed or treated may have been exposed to the chemical concerned. The health professional may not use the information for purposes other than the health needs asserted in the statement of need and may be required to execute a nondisclosure agreement.

044.03 Where a health professional determines that a medical emergency exists and the chemical constituents of a trade secret product are necessary for emergency treatment, the operator or service company shall immediately disclose the chemical constituents to a product to that health professional upon verbal acknowledgement by the health

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professional that such information shall not be used for purposes other than health needs asserted and that the health professional shall otherwise maintain the information as confidential.

Statute 57-905(4)(b)

Statute: 57-905; 57-906; 57-907; 57-908; 57-919

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CHAPTER 4 – UNDERGROUND INJECTION

001 CLASSIFICATION OF UNDERGROUND INJECTION WELLS

001.01 Enhanced recovery injection well is a well which injects fluids to increase the recovery of oil and/or gas.

A commercial enhanced recovery facility includes single or multiple wells that are specifically engaged in the business of underground injection of brine generated by third party producers for a fee or compensation. In addition, the produced brine must originate off-site as a result of oil and gas production operations only, and must be transported to the facility by tank truck.

001.02 Disposal well is a well which injects for purposes other than enhanced recovery those fluids brought to the surface in connection with the production of oil and/or gas.

A commercial disposal facility includes single or multiple wells that are specifically engaged in the business of underground injection of brine generated by third party producers for a fee or compensation. In addition, the produced brine must originate off-site as a result of oil and gas production operations only, and must be transported to the facility by tank truck.

002 APPROVAL OF ENHANCED RECOVERY INJECTION WELLS OR DISPOSAL WELLS

002.01 Commencement of waterflooding and other enhanced recovery operations involving the introduction of extraneous forms of energy into any reservoir, including cycling or recycling operations and the extraction and separation of liquid hydrocarbons from natural gas in connection therewith is permitted only upon order of the Commission.

002.02 Underground disposal of salt water, brackish water or other water unfit for domestic, livestock, irrigation or other general uses is permitted only upon order of the Commission.

002.03 All injection wells must have sufficient surface casing run to reach a depth below the base of all water sources that are less than three thousand (3,000) parts per million total dissolved solids or water sources that are or could be reasonably utilized as domestic fresh water unless those sources are exempted. Casing shall be sufficiently cemented to fill the annulus to the top of the hole.

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002.04 All injection wells shall be cased and the casing cemented in such a manner that damage will not be caused to oil and gas resources by any injection activity.

002.05 Authorization for injection may be conditioned upon the applicant taking action to protect fresh water as may be specified by the Commission in its order.

003 AUTHORIZATION FOR EXISTING ENHANCED RECOVERY INJECTION WELLS AND EXISTING DISPOSAL WELLS

003.01 Each enhanced recovery injection well authorized under order of the Commission prior to the effective date of this rule is an existing enhanced recovery well. Injection is prohibited in any existing enhanced recovery well unless the operator has included that well on an injection well inventory submitted to the Commission within one (1) year following the effective date of this rule. The inventory of authorized existing injection wells shall include each well name and number, location, Commission order number, date of order, maximum authorized injection rate and maximum authorized injection pressure.

003.02 Each disposal well being operated under order of the Commission prior to the effective date of this rule is an existing disposal well. Injection is prohibited into any existing disposal well unless the operator has included that well on an injection well inventory submitted to the Commission within one (1) year following the effective date of this rule. The inventory of authorized existing disposal wells shall include each well name and number, location, Commission order number or other authorization, date of order or authorization, maximum authorized injection rate and maximum authorized injection pressure.

003.03 Each commercial facility well being operated under order of the Commission prior to the effective date of this rule is an existing commercial facility well. Commercial injection is prohibited within six (6) months following the effective date of this rule, unless the operator files with the Commission a list of that commercial well and the well or wells meets or exceeds the requirements set forth in this chapter.

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004 APPLICATION FOR APPROVAL OF ENHANCED RECOVERY INJECTION AND DISPOSAL WELLS

004.01 Each application for the approval of a new enhanced recovery injection well or disposal well shall be filed and verified by a duly authorized representative of the operator. The original and six (6) copies of the application and one (1) complete set of attachments shall be furnished containing all the information required by these rules. More than one (1) well may be included on an application, provided, that such wells are associated with a single project or unit operation. An application for the approval of injection wells which are a part of a proposed enhanced recovery project or unit may be consolidated with the application for the approval of the enhanced recovery project or unit.

004.02 The application for the initial approval of an enhanced recovery injection or disposal well or wells shall be accompanied by:

004.02A A plat map showing all wells, including dry, abandoned or drilling wells shall be properly located and designated on said plat. In the case of an operation conducted subject to a unit agreement, the area affected shall be the area subject to such agreement, or that area within one-half (1/2) mile of each injection well, whichever is the greater distance.

004.02B The names and addresses of each person owning a fee, leasehold, mineral or royalty interest within one-half (1/2) mile of each injection well or within the area required to be shown on the plat, whichever is the greater.

004.02C A full description of the particular operation for which approval is sought.

004.02D The names and addresses of the operator or operators of the project.

004.02E If the wells have been drilled, a copy of each completion report and any available electric or radioactivity logs.

004.02F A schematic diagram of each well showing:

004.02F1 The total depth or plug-back of the well.

004.02F2 The depth of the injection or disposal interval.

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- 004.02F3 The geological name of the injection or disposal zone.
- 004.02F4 A geologic description of the injection or disposal zone including the location and extent of any known faults or fracture systems.
- 004.02F5 The depths of the tops and bottoms of the casing and cement to be used in the well.
- 004.02F6 The size and specifications of the casing and tubing, and the setting depth and type of packer, if used.
- 004.02G Information showing that injection into the proposed zone will not initiate vertical fractures into or through the overlying strata which could enable the injected fluids or formation fluids to enter any fresh water strata.
- 004.02H Information that no unplugged wells exist which will allow the migration of the injected fluids or formation fluids to enter any fresh water strata.
- 004.02I Information regarding the fracture pressures of the injection zone and the overlying strata, including the source of such information.
- 004.02J Proposed operating data:

 - 004.02J1 Maximum designed or proposed daily injection rates and injection pressures.
 - 004.02J2 The source of any fluids to be injected.
 - 004.02J3 Analysis of a representative sample of the fluids to be injected.
 - 004.02J4 Analysis of fresh water from two or more freshwater wells within one mile of the proposed injection well showing the location of the wells and the dates the samples were collected, or a statement why samples were not submitted.
 - 004.02J5 Geological name of the lowest freshwater zone, if known, and the depth to the base of the freshwater zone.

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004.02J6 The vertical distance separating top of the injection zone and the base of the lowest freshwater strata.

004.03 For previously authorized units or projects, the names and addresses of each person owning a fee, leasehold, mineral or royalty interest within one-half (1/2) mile of each new injection well shall be shown on the plat.

005 NOTICE OF HEARING

005.01 Upon filing of an application, the Commission shall issue notice thereof, as provided by the Act and these regulations. Said application shall be set for public hearing at such time and place as the Commission may fix.

005.02 In addition to the notice required by law, notice of the application and the time and place of hearing shall be given by the applicant by certified mail or by delivering a copy of the notice to each person owning a fee, leasehold, mineral or royalty interest within the secondary recovery project area or within one-half (1/2) mile of the injection well, whichever is the greater. For previously authorized units or projects, the operator(s) of record owning adjacent secondary recovery unit or project within one-half (1/2) mile of each new injection well shall be noticed. A copy of such notice shall be filed with the Commission, and the applicant shall certify that notice by certified mail or by delivery to each person has been accomplished at least fifteen (15) calendar days prior to the hearing.

005.03 In the event no person required to be notified, or the Commission itself files a written objection to the application within ten (10) days of the date of the notice, the application shall be granted; but if any person or the Commission itself files written objection within ten (10) calendar days of the notice, then a hearing shall be held.

005.04 No notice is necessary to any person who has consented to the proposed installation in writing.

005.05 An order authorizing an injection well will expire and become null and void if the authorized well or wells are not completed or converted to injection within one (1) year from the date of the order.

006 OPERATING REQUIREMENTS FOR ENHANCED RECOVERY INJECTION AND DISPOSAL WELLS

006.01 Initial Requirements:

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006.01A Each enhanced recovery injection well or disposal well shall be completed, equipped, operated and maintained in a manner that will prevent pollution of fresh water or damage to sources of oil and/or gas and will confine injected fluids to the formation or zones approved.

006.01B Injection of any substance shall be through adequate casing or casing and tubing. Annular injection is prohibited. Above ground extensions shall be installed in each annulus in the well and each injection tubing or casing. Such extensions shall be fitted with a cut-off valve and a one-fourth (1/4) inch female fitting to provide for pressure monitoring by attaching a gauge having a one-fourth (1/4) inch male fitting.

006.01B1 Each commercial facility well must be equipped with tubing and packer.

006.01C Before operating a new well drilled or converted for enhanced recovery injection or disposal, the casing shall be tested under the supervision of the Director.

006.01D For all Salt Water Disposal (SWD) wells, the operator shall monitor and record actual injection pressure and each annulus pressure at least once each week and report such monitoring monthly.

006.01E For all Enhanced Oil Recovery (EOR) wells, the operator shall monitor and record actual injection pressure and each annulus pressure at least once each month and report such monitoring monthly.

006.01F Each well or group of wells which inject fluids under pressure utilizing a positive displacement pump shall have installed both high pressure and low pressure safety switches which will shut down the pump in case of pressure increase over the authorized pressure or sudden pressure loss.

006.01G All commercial facility sites must be physically secured at all times. The Director will determine if a site is secure. The Commission recommends that sites be secured by either of the following:

- Complete enclosure of all wells, tanks/pits and wellhead assemblies within suitable fencing; and/or

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- All gates and other entry points shall be locked when the facility is unattended; and/or
- Provide tamper-proof seals or locks for the "master" valve on each well; and/or
- Install locking caps on all valves and connections on holding tanks and headers.

006.02 Mechanical Integrity Pressure or Monitoring Test Requirements:

The following pressure or monitoring test must be performed on all new and existing enhanced recovery injection wells and disposal wells to periodically establish the mechanical integrity of the casing, and tubing and packer, if used.

006.02A Pressure Test: All new enhanced recovery injection wells and disposal wells authorized by the Commission after February 3, 1983, shall have the casing pressure tested prior to use and thereafter no less than once each five (5) years. Wells with tubing and packer installed shall have the tubing-casing annulus pressure tested to a pressure of three hundred (300) pounds per square inch. Wells without tubing and packer installed shall be tested to a pressure equal to one hundred twenty-five (125) percent of the maximum authorized injection pressure or at a pressure of three hundred (300) pounds per square inch, whichever is greater. Existing injection wells shall be tested not less than once each five (5) years. Casing pressure tests shall be conducted under the supervision of the Director.

006.02B On existing injection wells without tubing and packer, the operator shall demonstrate the absence of fluid movement in vertical channels adjacent to the injection well bore by the use of tracer surveys, noise logs, temperature surveys or other tests or combination of tests approved by the Director, at least once each three (3) years. Such tests shall be run under the supervision of the Director.

006.02C All commercial wells must have annual pressure tests to establish the mechanical integrity of the casing, tubing and packer. Casing pressure tests shall be conducted under the supervision of the Director.

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007 MONITORING AND REPORTING REQUIREMENTS FOR ENHANCED RECOVERY INJECTION AND DISPOSAL WELLS

- 007.01 Immediately upon the commencement of injection operations, the operator shall notify the Commission of the date on which injection was commenced.
- 007.02 Within ten (10) days after the discontinuances of injection operations, the operator shall notify the Commission of the date of such discontinuance and the reasons therefore.
- 007.03 Except as may otherwise be required, the operator shall monitor injection pressure and injection rate of each injection well on a monthly basis and report the results on Form 11. Units or projects with more than one injection well may utilize manifold monitoring.
- 007.04 Mechanical failures or downhole problems which indicate an enhanced recovery injection well or disposal well is not, or may not be, directing or containing the injected fluid into the permitted or authorized injection zone is cause to shut-in the well. If said condition may endanger fresh water sources, the operator shall orally notify the Director within twenty-four (24) hours. Written notice of the failure shall be submitted to the Director within five (5) days of the occurrence together with a plan for repairing and testing the well. Results of the repair and testing shall be reported to the Director and approved before further injection is commenced.
- 007.04A If a well poses a substantial risk to a protected aquifer, then repairs or plugging and abandonment shall be initiated within ninety (90) days of the failure date. However, under certain conditions, that date may be extended by the Director.
- 007.04B Wells which lack mechanical integrity but do not pose a substantial risk shall be repaired or plugged and abandoned within two hundred seventy (270) days of the failure date. However, if the operator has the ability to monitor the well, then the Director may allow the well to be shut-in.
- 007.05 Enhanced recovery injection wells and disposal wells shall be plugged and abandoned in accordance with the provisions of Rule 3-028.

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008 **DURATION OF UNDERGROUND INJECTION WELL ORDERS**

- 008.01 Orders authorizing injection into enhanced recovery injection wells and disposal wells shall remain valid for the life of the well, unless revoked by the Commission for cause.
- 008.02 An order granting underground injection may be modified, revoked and reissued, or terminated during its term for cause, after notice and hearing, upon the request of any interested person or at the Commission's initiative. All requests filed requesting review of any order authorizing underground injection shall be in writing and shall contain facts or reasons supporting such request.
- 008.03 Upon receipt of a request to modify or revoke an order authorizing underground injection, the Commission shall promptly set the matter for hearing and may revoke, modify and reissue said order if:

 - 008.03A There is a substantial change of conditions in the enhanced recovery injection well or the disposal well operation, or there are substantial changes in the information originally furnished.
 - 008.03B Information shows that the permitted operation will have adverse cumulative effects on the environment.
 - 008.03C Information shows that the operation is not in accordance with the order authorizing the injection.

009 **TRANSFER OF AUTHORITY TO INJECT**

An order authorizing an enhanced recovery injection well or disposal well shall not be transferred from one operator to another without the approval of the Director. Prior to transfer of ownership of any injection well or change of operator, the new operator shall file written notice of such change with the Commission on Form 4 showing the proposed date of transfer along with proof of compliance with the bonding provisions of Rule 3-004.

- 009.01 The class II permits are considered expired once an applicant applies for a transition from Class II to Class VI injection wells. The operator must apply for and obtain a Class VI geologic sequestration permit.

Statute: 57-905; 57-910; 57-911

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CHAPTER 5 – UNIT OPERATIONS AND APPROVAL OF UNIT AGREEMENT

001 **APPLICATION FOR UNIT**

An application for an order for the unit operations of a pool, pools, or parts thereof and for the pooling of the interests in the oil and gas in the proposed unit area shall contain:

- 001.01 A plat outlining the area which will be affected by the proposed operation and showing all governmental quarter sections or lots equivalent thereto directly or diagonally offsetting said area. The names of the owner or operator of each separate tract of land shall be shown, and all wells, including dry, abandoned or drilling wells shall be properly located and designated on said plat. In the case of an operation conducted subject to a unit agreement, the area affected shall be the area subject to such agreement.
- 001.02 The names and addresses of each owner as defined by the Act, or operator as shown by the Commission records, of lands within the area which will be affected by the operation and of lands directly or diagonally offsetting said area.
- 001.03 A full description of the particular operation for which approval is sought.
- 001.04 The names and addresses of the operator or operators of the project.
- 001.05 The formation or formations from which all wells are producing or have produced.
- 001.06 The name, depth and description of the reservoir, reservoirs, pool, pools or parts thereof to be so operated.
- 001.07 The names of all persons owning or having an interest in the oil and gas in the proposed unit area or the production therefrom, including mortgagees and the owners of other liens or encumbrances, as disclosed by the public records in the county in which the unit area is situated and their addresses, if known. If the name or address of any person is unknown, the application shall so indicate.
- 001.08 A proposed plan of unitization applicable to the proposed unit area which the petitioner considers fair, reasonable and equitable.
- 001.09 A proposed operating plan covering the manner in which the unit will be supervised and managed and costs allocated and paid, unless all owners within the unit area have already executed an operating agreement covering such supervision, management and allocation and payment of costs.

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002 HEARING

A hearing on an application filed under Chapter 4 and a hearing on an application filed under this rule may be consolidated for the purpose of hearing and taking testimony if a part of the testimony in one matter is also material in the other. Separate orders may be entered on each application.

Statute: 57-901; 57-905; 57-910; 57-911

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001 **SCOPE AND APPLICATION OF RULES**

001.01 Scope of Rules

These rules shall be known and designated as "Rules of Practice and Procedure before the Oil and Gas Conservation Commission of the State of Nebraska," in all proceedings relating to the conservation of oil and gas in the State of Nebraska and to the administration of the Act.

002 **WHO MAY INSTITUTE PROCEEDINGS**

002.01 Proceedings Instituted by Commission and Any Interested Person

The Commission, upon its own motion, or any interested person, may institute proceedings upon any question relating to the conservation of oil and/or gas or to the administration of the Nebraska Oil and Gas Conservation Act.

003 **PARTIES**

003.01 Petitioner

The Commission entering its order to show cause or entering its order to initiate a proceeding, or a party other than the Commission instituting a proceeding, shall be known as the Petitioner.

003.02 Respondent

Any party against whom a proceeding is instituted shall be known as Respondent.

003.03 Intervener

Any party not designated as a petitioner or respondent shall be known as an Intervener.

004 **INSTITUTION OF PROCEEDINGS**

004.01 Copies

All proceedings, except those initiated by the Commission on its own motion, shall be instituted by filing six (6) copies of a typewritten or printed application, petition or complaint. An additional copy shall be filed for each party named as a respondent. One (1) copy of the application, petition or complaint shall be mailed by the Secretary to each other party or his attorney of record, if the address

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of such other party is known or can be determined. One (1) copy shall be mailed to any other person requesting same in writing.

004.02 Promulgation, Amendment or Repeal of Rules

Any interested person requesting the promulgation, amendment or repeal of any rule adopted by the Commission shall file an application or a petition therefore, in number as set forth in Rule 6-004.01. The procedure for the submission, consideration and disposition thereof shall be the same as in other proceedings commenced by any interested person before the Commission.

004.03 Filing and Docketing

When a proceeding is instituted, the Secretary of the Commission shall assign it a number and enter the proceeding with the date of its filing or the date of the entry of the Commission order instituting such proceeding, on a separate page of a docket provided for such purpose. All pleadings offered subsequent to the institution of a proceeding shall be noted with the date of filing upon the docket page of said proceeding or a continuation thereof.

004.04 Additional Copies

The Secretary may at any time require the party filing, or offering for filing, a pleading to furnish such additional copies of the same as may be deemed necessary.

004.05 Execution

In any proceeding instituted on motion of the Commission, the original application, complaint or order to show cause must be signed by at least two (2) members of the Commission. Any other original application, petition or complaint shall be signed by the person filing it, or his attorney, with mailing address shown.

004.06 Representation by Attorneys

Any attorney duly authorized to practice law before the courts of record of any other state shall, upon motion, be admitted to practice before the Commission, provided it shall appear to the Commission that he has associated and appearing with him in any proceeding before the Commission an attorney who is a resident of Nebraska and regularly admitted to practice in the State of Nebraska.

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004.07 Cost of Hearing

A petition filed with the Commission for a public hearing shall be accompanied by a filing fee of two hundred fifty dollars (\$250).

005 FORM OF PLEADINGS

005.01 Application, Petition or Complaint

Each original pleading shall show the venue "Before the Nebraska Oil and Gas Conservation Commission" and shall contain a heading showing the names of the petitioner and the respondents, if any. Such pleadings shall be drawn so as to fully and completely advise the Commission in plain language of all of the pertinent facts involved and shall state concisely the matters complained of and what relief or action is sought from the Commission.

005.02 Answers, Protest, Notice of Protest

Any interested person may appear at the hearing and support, protest or otherwise be heard concerning any such matter provided that any person desiring to protest the granting of the petition shall, at least five (5) days prior to the date of the hearing, file a written protest with the Commission, which shall briefly state the basis of the protest. Any person who files a protest with the Commission shall at the same time serve a copy thereof on the person filing the petition. Such service shall be made by mailing a copy of the protest, postage prepaid, to the petitioner.

006 NOTICE OF HEARING

006.01 Time of Notice; Emergency Orders

Before any rule, regulation, or order, or amendment thereof, shall be made by the Commission, there shall be held a public hearing upon at least fifteen (15) days notice at such time and place as may be prescribed by the Commission and any interested person shall be entitled to be heard, except that when an emergency requiring immediate action is found by the Commission to exist, the Commission may issue an emergency order, without notice of hearing, which shall be effective upon promulgation but shall remain effective for no more than twenty (20) days.

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006.02 Manner of Notice and Contents

When a proceeding has been instituted, either by the Commission on its own motion or by a party, the Commission shall cause notice of the hearing before the Commission to be given by personal service or by one publication in a newspaper of general circulation in each county where the land affected, or some part thereof, is situated. Said notice shall be issued in the name of the State of Nebraska, shall be signed by a member of the Commission or the Secretary of the Commission and shall specify the style and number of the proceeding, the time and place of the hearing, the purpose of the proceeding and the issues involved.

006.03 Notice by Personal Service

Should the Commission elect to give notice by personal service as provided in Rule 6-006.02, such service may be made by any officer authorized to serve summons, or by any agent of the Commission, in the same manner and extent as is provided by law for the service of summons in civil actions in the District Courts in this State. Proof of Service by such agent shall be by his affidavit and Proof of Service by any officer shall be in the form required by law with respect to service of process in civil actions.

006.04 Service of Notice in Special Proceedings

006.04A In all cases where

006.04A1 there is an application for the entry of a pooling order under Section 57-909 R.S. Nebraska, or

006.04A2 there is an application for the entry of a unitization order under Section 57-910 to 57-910.12 R.S. Nebraska, notice of the hearing to be held on such application shall be served on the interested parties as hereinafter defined by certified mail at least fifteen (15) days prior to the date of the hearing.

For the purpose of pooling applications filed under Section 57-909, the term, "interested parties," shall mean those persons who own any oil or gas

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leasehold, mineral or royalty interest in the tracts to be pooled.

For the purpose of unitization applications filed under Section 57-910 to 57-910.12, the term, "interested parties," shall mean those persons whose names are required to be set forth in the application.

006.04B

In all cases where a complaint is made to the Commission that any provision of the Act or any rule, regulation, or order of the Commission is being violated, notice of the hearing to be held on such complaint, or order to show cause, shall be served on the interested parties, as hereinafter defined, in the same manner as is provided in the Rules of Civil Procedure for the service of process in civil actions in the District Courts in this State, as the same may be implemented, interpreted and made specific by the Commission.

In such cases the party or parties complained against and such other persons as the Commission finds may be affected by the act complained of shall be deemed the interested party or parties.

006.04C

In all cases where there is an application for an exception to an established well spacing pattern, in addition to notice of hearing as required by the Act, the applicant shall serve notice of hearing upon all interested parties by certified mail. The term "interested parties" shall mean those persons who own any leasehold, mineral or royalty interest in contiguous or cornering tracts of the size established in the existing spacing pattern. Applicant shall file a certificate showing the names and addresses of the interested parties, as above defined, upon whom notice has been or is being served.

006.04C1

The Commission may on its own motion establish temporary spacing for wildcat reservoirs after notice and hearing. Notice in such cases shall be by publication in the legal newspaper of the county where the discovery is located.

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006.04D In all cases where there is an application for the approval of the commencement of an enhanced recovery project, or approval of any injection well under Chapter 4, in addition to any notice provided for in Rule 6-006.02, notice of the filing of such application shall be given by the applicant by certified mail or by personal delivery of a copy of the said notice to each person owning a fee, leasehold, mineral or royalty interest within the area which will be affected by the operation and of lands directly or diagonally offsetting said area or within one-half (1/2) mile of a proposed injection well, whichever is greater. Such notice shall state the time and place of hearing. Proof of the mailing or service of such notice shall be made by affidavit which shall be filed with the Commission.

006.04E All notices required by this Rule shall be given as soon as practicable after the filing of the application, but in any event at least fifteen (15) days prior to the date of hearing. Service of notice shall be deemed complete as of the date of mailing.

006.04F All notices required by this Rule shall contain the following statements: "Any person desiring to protest the granting of the application shall, at least five (5) days prior to the date of the hearing, file a written protest with the Commission, which shall briefly state the basis of the protest. Any person who files a protest with the Commission shall at the same time serve a copy thereof on the person filing the application. Such service shall be by mailing a copy of the protest, postage prepaid, to the applicant. Complete copies of the application in the above-styled cause may be obtained from the Nebraska Oil and Gas Conservation Commission, P. O. Box 399, Sidney, Nebraska 69162."

006.05 Additional Notices

When any proceeding other than those referred to in Rules 6-004.01 and 6-006.04 has been instituted in addition to the service or publication of the notice of hearing as required by the Act, the applicant shall mail to each respondent or interested party and to all persons who have requested notification of such proceeding, as

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provided in Rule 6-006.06, a written notice of hearing. The term "Interested Party" shall mean those persons who own any leasehold, mineral or royalty interest in the lands affected.

006.06 Request for Notices

Any person desiring notification by mail from the Secretary of the hearings before the Commission shall request same in writing by filing with the Secretary his name and address and designating the area or areas in which interested and as to which he desires to receive such notices.

007 HEARINGS

007.01 Examiners

The Commission may appoint one or more examiners who may conduct any of its hearings in accordance with Section 57-905(12). All hearings may be set for hearing before an Examiner except:

007.01A Matters which the Commission or the Director believes should be heard before the Commission.

007.01B Matters in which the application or a motion pursuant to which the hearing is held specifically requests that the hearing be heard before the Commission; provided that such motion is filed at least five (5) days prior to the hearing.

007.01C Matters involving the adoption or change of any rule or regulation.

007.01D Matters initiated on the motion of the Commission for the enforcement of any rule, regulation, order or statutory provision.

007.02 Continuances

Any party who desires a continuance shall, immediately upon receipt of notice of the hearing or as soon thereafter as facts requiring such continuance come to his knowledge, notify the Commission in writing of said desire, stating in detail the reasons why such continuance is necessary. Any such party may be required to submit affidavits in support of such request. The Commission or its examiners, in passing upon a request for continuance, shall consider whether such request was promptly made. For good cause

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shown, a continuance not to exceed thirty (30) days may be granted without the necessity of notice in addition to the original notice of hearing. The Commission or its examiners may at any time order a continuance on its own motion. Only under exceptional circumstances will requests for continuance of a hearing be considered unless submitted at least seven (7) days prior to the hearing date. The Secretary shall notify all interested parties immediately of the granting of a continuance.

007.03 Conduct of Hearings; Transcript

A transcript of the testimony shall be made and upon request and payment therefore a copy thereof will be furnished any person requesting the same. Any person testifying in response to a subpoena issued by the Commission or its examiners and any person testifying in support of any application or a petition or a complaint or a motion, or in opposition thereto, shall be required to do so under oath or affirmation which may be administered by any member of the Commission or its examiners.

007.04 Quorum

Two (2) members of the Commission constitute a quorum for the transaction of business.

007.05 Presentation and Consideration of Evidence

Full opportunity shall be afforded all persons registering their appearances to present evidence in support of their case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of facts. Any evidence which is not irrelevant, immaterial, incompetent or unduly repetitious may be received and made a part of the record in the case, including records and documents in the possession of the Commission of which it desires to avail itself. No other factual information or evidence will be considered in the determination of a case.

Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

007.06 Judicial Notice

The Commission or its examiners may take notice of judicially cognizable fact and in addition may take notice of general, technical

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or scientific facts within their specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports, or otherwise, of the material so noticed. They shall be afforded an opportunity to contest such facts and material so noticed. The Commission or its examiners may utilize their experience, technical competence and specialized knowledge in evaluating the evidence and may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs.

007.07 Subpoenas and Production of Records

The Commission or its examiners may upon its own motion or upon application of any interested party issue subpoenas requiring attendance of witnesses and the production of books, papers and other instruments to the same extent and in the same manner and in accordance with the procedure provided in the Nebraska Rules of Civil Procedure which authorizes issuance of subpoenas by Clerks of the District Courts.

007.08 Depositions

Depositions may be taken by the Commission or its examiners or by parties to a proceeding and used before the Commission in the same manner and under the same conditions prescribed in the Nebraska Rules of Civil Procedure relating to the taking and using of depositions in the Courts of this State.

007.09 Disposition by the Commission or its examiners may be made of any contested case by stipulation, agreed settlement, consent order or default.

007.10 Registration of Appearances of Hearings

All persons who wish to speak for the record at any public hearing before the Commission or its examiners shall register their appearance at the door on a form to be provided by the Commission. Other persons present may register their appearance. The registration form when completed shall be handed to the reporter whose duty it shall be to see that each person desiring to speak has completed and deposited with him such form. The registration form shall contain spaces for the following information: (1) name, (2) address, (3) person the registrant is representing, (4) capacity in which the registrant appears and (5) the interest of the registrant in

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the proceeding. Such registration form must be signed. Below the signature there shall be a space for registrant to indicate that he wishes to order a copy of the transcript and will pay the cost of making such copy. The request for a copy of the transcript may be completed at the conclusion of the hearing or such later time as may be agreeable. At the conclusion of the hearing all registration cards shall be kept as a part of the record.

008 **ORDERS AND DECISIONS**

008.01 Time of Entry; Contents

The Commission or its examiners shall enter its order within thirty (30) days after the hearing and cause the same to be indexed in books to be kept for that purpose. Every decision and order adverse to a party to the proceeding, rendered by the Commission or its examiners in a contested case, shall be in writing and accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or his attorney of record.

008.02 Any person having an interest in property affected by an order issued by an examiner and who is dissatisfied with such order may appeal to the Commission by filing a petition on appeal to the Commission within fifteen (15) days of the entering of the examiner's order. The Commission shall hold a hearing on the appeal within forty-five (45) days of the filing of an appeal to the Commission and issue its order within fifteen (15) days after the hearing.

008.03 Quantum of Proof Required

No decision shall be rendered, sanction imposed or rule or order issued except on consideration of the whole record or such portions thereof as may be cited by any party and is supported by and in accordance with a preponderance of the reliable probative and substantial evidence.

008.04 Proceedings for Re-Hearing

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No applications or proceedings for re-hearing before the Commission shall be filed except in accordance with Section 57-905(12).

008.05 Briefs

The Commission or its examiners may require the submission of briefs, and any party desiring to submit a brief may do so. The parties shall indicate at the close of the testimony whether they desire to file briefs and the subject matter proposed to be covered. The time for filing briefs will be fixed by the Commission or its examiners. Briefs shall be double spaced except for citations. Five (5) copies shall be filed with the Commission and one (1) copy served upon each party to the proceeding or his attorney of record requesting the same.

Statute: 57-905; 57-911

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NEBRASKA OIL AND GAS CONSERVATION STATUTE

Chapter 57, Revised Statutes of Nebraska

Section	
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57-902.	Waste of oil and gas; prohibited.
57-903.	Oil and gas; terms, defined.
57-904.	Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation.
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57-923.	Well Plugging and Abandonment Trust Fund; created; use; investment; inactive oil or gas well; fee.

57-901. Oil and gas conservation; purpose. It is hereby declared to be in the public interest to foster, to encourage and to promote the development, production and utilization of natural resources of oil and gas in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such a manner that the greatest ultimate recovery of oil and gas be had; and that the correlative rights of all owners be

fully protected; and to encourage and to authorize cycling, recycling, pressure maintenance and secondary recovery operations in order that the greatest possible economic recovery of oil and gas be obtained within the state to the end that the landowners, the royalty owners, the producers and the general public realize and enjoy the greatest possible good from these vital irreplaceable natural resources.

It is the intent and purpose of sections 57-901 to 57-921 to permit each and every oil and gas pool in Nebraska 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 correlative rights of the owners of a common source of oil or gas so that each common owner may obtain his just and equitable share of production therefrom.

Source: Laws 1959, c. 262, § 1, p. 900.

Annotations

This and succeeding sections contemplate determination of correlative rights of adjoining owners in a pool of oil or gas shall be determined on a fair, reasonable, and equitable basis. *Farmers Irr. Dist. v. Schumacher*, 187 Neb. 825, 194 N.W.2d 788 (1972).

Lessee who refused to participate in a secondary recovery unit formed prior to compulsory unitization only entitled to recover for that which he would have produced by his own efforts without unitization. *Baumgartner v. Gulf Oil Co.*, 184 Neb. 384, 168 N.W.2d 510 (1969).

57-902. Waste of oil and gas; prohibited. Waste of oil and gas, or either of them, as defined in section 57-903, is prohibited in the State of Nebraska.

Source: Laws 1959, c. 262, § 2, p. 901.

57-903. Oil and gas; terms, defined. As used in sections 57-901 to 57-921, unless the context otherwise requires:

(1)(a) Waste, as applied to oil, shall include underground waste, inefficient, excessive, or improper use, or dissipation of reservoir energy, including gas energy and water drive, surface waste, open pit storage, and waste incident to the production of oil in excess of the producer's aboveground storage facilities and lease and contractual requirements, but excluding storage, other than open pit storage, reasonably necessary for building up or maintaining crude stocks and products thereof for consumption, use, and sale; (b) waste, as applied to gas shall include (i) the escape, blowing, or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas from wells producing oil or both oil and gas and (ii) the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced, but excluding gas that is reasonably necessary in the drilling, completing, testing, and producing of wells and gas unavoidably produced with oil if it is not economically feasible for the producer to save or use such gas; and (c) waste shall also mean the abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas therefrom causing reasonably avoidable drainage between tracts of land or resulting in one or more owners in such pool producing more than his or her just and equitable share of the oil or gas from such pool;

(2) Commission shall mean the Nebraska Oil and Gas Conservation Commission;

(3) Person shall mean any natural person, corporation, association, partnership, limited liability company, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and any department, agency, or instrumentality of the state or of any governmental subdivision thereof;

(4) Oil shall mean crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas other than gas produced in association with oil and commonly known as casing-head gas;

(5) Gas shall mean all natural gas and all other fluid hydrocarbons not defined as oil;

(6) Pool shall mean an underground reservoir containing a common accumulation of oil or gas or both, each zone of the structure which is completely separated from any other zone in the same structure is a pool as that term is used in sections 57-901 to 57-921;

(7) Field shall mean the general area underlaid by one or more pools;

(8) Owner shall mean the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he or she produces therefrom either for himself or herself or for himself or herself and others;

(9) Producer shall mean the owner of a well or wells capable of producing oil or gas or both or any person who owns and operates a lease, or a unit of producing leases in which other persons own interests, with respect to such well or wells;

(10) Correlative rights shall mean the opportunity afforded to the owner of each property in a pool to produce, so far as it is reasonably practicable to do so without waste, his or her just and equitable share of the oil or gas, or both, in the pool; and

(11) The word and shall include the word or, and the word or shall include the word and.

Source: Laws 1959, c. 262, § 3, p. 901; Laws 1983, LB 228, § 5; Laws 1983, LB 224, § 7; Laws 1993, LB 121, § 353.

Annotations

The definition of waste embraces abuse of a correlative right resulting in an owner in the pool producing more than his just and equitable share of the oil therefrom. *Ohmart v. Dennis*, 188 Neb. 260, 196 N.W.2d 181 (1972).

One form of waste is abuse of correlative rights of any owner in a pool of oil or gas whereby another owner avoidably drains more than a just and equitable share from the pool. *Farmers Irr. Dist. v. Schumacher*, 187 Neb. 825, 194 N.W.2d 788 (1972).

Cited in discussion in recovery allowed lessee who refused to participate in a precompulsory unitization agreement. *Baumgartner v. Gulf Oil Co.*, 184 Neb. 384, 168 N.W.2d 510 (1969).

57-904. Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation. There is hereby established the Nebraska Oil and Gas Conservation Commission. The commission shall consist of three members to be appointed by the Governor. The director of the state geological survey shall serve the commission in the capacity as its technical advisor, but with no power to vote. Any two commissioners shall constitute a quorum for all purposes. At least one member of the commission shall have had experience in the production of oil or gas and shall have resided in the State of Nebraska for at least one year. Each of the other members of the commission shall have resided in the State of Nebraska for at least three years. Initially, two of said members shall be appointed for a term of two years each; and one shall be appointed for a term of four years. At the expiration of the initial terms all members thereafter appointed shall serve for a term of four years. The Governor may at any time remove any appointed member of the commission for cause, and by appointment, with the approval of the Legislature, shall fill any vacancy on the commission. The members of the commission shall receive as compensation for their services the sum of fifty dollars per day for each day actually devoted to the business of the commission; *Provided*, that they shall not receive a sum in any one year in excess of two thousand dollars each. In addition, each member of the commission shall be reimbursed for his or her actual and necessary traveling and other expenses incurred in connection with the carrying out of his or her duties as provided in sections 81-1174 to 81-1177 for state employees.

Source: Laws 1959, c. 262, § 4, p. 902; Laws 1979, LB 90, § 1; Laws 1981, LB 204, § 99.

57-905. Commission; powers and duties.

(1) The commission shall have jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of sections 57-901 to 57-921.

(2) The commission shall have authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission.

(3) The commission shall have authority to require: (a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the production of oil and gas; (b) the making and filing of directional surveys, and reports on well location, drilling, and production within six months after the completion or abandonment of the well; (c) the drilling, casing, operating, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata, the pollution of fresh water supplies by oil, gas, or salt water, and to prevent blowouts, cave-ins, seepages, and fires; (d) the furnishing of a reasonable bond with good and sufficient surety, conditioned for the performance of the duty to comply with all the provisions of the laws of the State of Nebraska and the rules, regulations, and orders of the commission; (e) that the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured; (f) the operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios; (g) metering or other measuring of oil, gas, or product in pipelines or gathering systems; (h) that every person who produces or purchases oil or gas in this state shall keep and maintain or cause to be kept and

maintained for a five-year period complete and accurate records of the quantities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may reasonably prescribe with respect to such oil or gas or the products thereof; and (i) that upon written request of any person, geologic information, well logs, drilling samples, and other proprietary information filed with the commission in compliance with sections 57-901 to 57-921, or any rule, regulation, or order of the commission, may be held confidential for a period of not more than twelve months.

(4) The commission shall have authority in order to prevent waste, to regulate: (a) The drilling, producing and plugging of wells, or test holes, and all other operations for the production of oil or gas; (b) the shooting and chemical treatment of wells; (c) the spacing of wells; (d) operations to increase ultimate recovery such as, but without limitation, the cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and (e) disposal of oilfield wastes, including salt water.

(5) The commission shall not have authority to limit the production of oil or gas, or both, from any pool or field except to prevent waste therein.

(6) The commission shall have authority to classify wells as oil or gas wells for purposes material to the interpretation or enforcement of the provisions of sections 57-901 to 57-921.

(7) The commission shall have authority to promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of sections 57-901 to 57-921.

(8) The commission, with the approval of the Governor, shall have authority to establish and maintain its principal office and its books, papers, and records at such place in the state as it shall determine. The commission shall not have authority to purchase its principal office quarters.

(9) The commission shall have authority to require that all wells drilled for oil and gas shall be adequately logged with mechanical-electrical logging devices, and to require the filing of logs.

(10) The commission shall have the authority to regulate the drilling and plugging of seismic and stratigraphic tests in oil and gas exploration holes.

(11) The commission shall have the authority to act as the state jurisdictional agency pursuant to the Natural Gas Policy Act, Public Law 95-621, 92 Stat. 3350.

(12) The commission shall have the authority to have one or more examiners, who are employees of the commission, conduct any of its hearings, investigations, and examinations authorized by sections 57-901 to 57-921. Such examiner may exercise the commission's powers including, but not limited to, the taking of evidence and testimony under oath, resolving questions of fact and questions of law, and the entering of an order. Such order shall be entered in the commission's order journal. Any person having an interest in property affected by an order issued by an examiner and who is dissatisfied with such order may appeal to the commission by

filing a petition on appeal to the commission within fifteen days of the entering of the examiner's order. Such person shall provide notice to all interested persons by personal service or registered or certified United States mail with return receipt, requiring such parties to answer within fifteen days from the date of service. Upon appeal, the commission shall hear the case de novo on the record and shall not be bound by any conclusions of the examiner. The commission shall hold a hearing on the appeal within forty-five days of the filing of an appeal to the commission and issue its order within fifteen days after the hearing. The commission shall review all orders issued by an examiner that are not appealed and issue an order concerning the examiner's order within sixty days after the examiner's order. The commission shall adopt, amend, or reject the examiner's order. Any order of an examiner which is not appealed to the commission and which the commission adopts shall not be appealable to the district court unless the commission adopts an order before the end of the time for appeal to the commission.

Source: Laws 1959, c. 262, § 5, p. 903; Laws 1961, c. 277, § 1, p. 811; Laws 1961, c. 278, § 1, p. 813; Laws 1967, c. 352, § 1, p. 936; Laws 1971, LB 355, § 1; Laws 1978, LB 661, § 2; Laws 1979, LB 56, § 1; Laws 1980, LB 709, § 2; Laws 1983, LB 356, § 1.

Annotations

Oil and Gas Conservation Commission has authority hereunder to prevent waste and to regulate the drilling, producing and spacing of wells. *Farmers Irr. Dist. v. Schumacher*, 187 Neb. 825, 194 N.W.2d 788 (1972).

57-906. Oil and gas; drilling permit; abandonment permit; fee.

(1) It shall be unlawful to commence operations for the drilling of a well for oil or gas without first giving to the commission notice of intention to drill, and without first obtaining a permit from the commission, under such rules and regulations as may be reasonably prescribed by the commission, and by paying to the commission a fee of two hundred dollars for each such permit.

(2) It shall be unlawful to commence operations for the abandonment of a well with production casing in the hole without first giving to the commission notice of intention to abandon and without first obtaining the approval of the commission for such abandonment and paying to the commission a fee of one hundred dollars.

Source: Laws 1959, c. 262, § 6, p. 905; Laws 1967, c. 353, § 1, p. 938; Laws 1974, LB 804, § 1; Laws 1995, LB 407, § 1.

Annotations

This section requires a permit from the Oil and Gas Conservation Commission before a well may be drilled. *Farmers Irr. Dist. v. Schumacher*, 187 Neb. 825, 194 N.W.2d 788 (1972).

57-907. Commission; limitation on production; duties.

(1) The commission shall limit the production of oil and gas from each pool to that amount which can be produced without waste in such pool.

(2) Whenever the commission limits the total amount of oil and 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 was imposed, the commission shall allocate or distribute the allowable production among the several wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonably avoidable drainage from each developed area not equalized by counterdrainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.

(3) The commission shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner as will protect the reasonable use of its energy for oil production.

(4) Each person now or hereafter purchasing or taking for transportation oil or gas from any owner or producer shall purchase or take ratably without discrimination in favor of any owner or producer in the same common source of supply offering to sell his oil or gas produced therefrom to such person or offering it to him for transportation.

Source: Laws 1959, c. 262, § 7, p. 905.

Annotations

This section authorizes the Oil and Gas Conservation Commission to limit production to prevent waste and to allocate or distribute allowable production equitably. *Farmers Irr. Dist. v. Schumacher*, 187 Neb. 825, 194 N.W.2d 788 (1972).

57-908. Commission; spacing units; establish.

(1) When required to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the commission shall establish spacing units for a pool, except in those pools which, prior to September 28, 1959, have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing state of development. Spacing units when established shall be of substantially uniform size and shape for the entire pool, except that when found to be necessary for any of the purposes above mentioned, the commission is authorized to divide any pool into zones and establish spacing units for each zone, which units may differ in size and shape from those established in any other zone.

(2) The size and the shape of spacing units are to be such as will result in the efficient and economical development of the pool as a whole, and that size shall be the area that can be efficiently and economically drained by one well.

(3) An order establishing spacing units for a pool shall specify the size and shape of each unit and the location of the permitted well thereon in accordance with a reasonably uniform spacing plan. Upon application of the person entitled to drill and after hearing, if the commission finds that a well drilled at the prescribed location would not produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, the commission is authorized to enter an order permitting the well to be drilled at a location other than that prescribed by such spacing order; *Provided*, the commission shall include in the order suitable provisions to prevent the production from the spacing unit of more than its just and equitable share of the oil and gas in the pool.

(4) An order establishing units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be changed or modified by the commission from time to time, when found necessary for the prevention of waste, or to avoid the drilling of unnecessary wells, or to protect correlative rights.

Source: Laws 1959, c. 262, § 8, p. 906.

Annotations

Pooling order herein was entered in conformity to requirements of act. *Farmers Irr. Dist. v. Schumacher*, 187 Neb. 825, 194 N.W.2d 788 (1972).

57-909. Spacing unit; pooling of interests; order of commission; provisions for drilling and operation; costs; determination; recording.

(1) When two or more separately owned tracts are embraced within a spacing unit or when there are separately owned interests in all or part of the spacing unit, then the owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, the commission, upon the application of any interested person, or upon its own motion, may enter an order pooling all interests in the spacing unit for the development and operation thereof. Each such pooling order shall be made only after notice and hearing and shall be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his or her just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed, for all purposes, the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

(2) Each such pooling order shall make provision for the drilling and operation of the authorized well on the spacing unit and for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision. As to each owner who refuses to agree upon the terms for drilling and operating the well, the order shall provide for reimbursement for his or her share of the costs out of, and only out of, production from the unit representing his or her interest, excluding royalty or other interest not obligated to pay any part of the cost thereof. In the event of any dispute as to such cost, the commission shall determine the proper cost. The order shall determine the interest of each owner in the unit and may provide in substance that, as to each owner who agrees with the person or persons drilling and operating the well for the payment by the owner of his or her share of the costs, such owner, unless he or she has agreed otherwise, shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the tract of the consenting owner; and as to each owner who does not agree, he or she shall be entitled to receive from the person or persons drilling and operating such well on the unit his or her share of the production applicable to his or her interest, after the person or persons drilling and operating such well have recovered, depending on the total measured depth of the well, three hundred percent for wells less than five thousand feet deep, four hundred percent for wells five thousand feet deep but less than six thousand five hundred feet deep, and five hundred percent for wells six thousand five hundred feet deep or

deeper, of that portion of the costs and expenses of staking, well site preparation, drilling, reworking, deepening or plugging back, testing, completing, and other intangible expenses approved by the commission chargeable to each owner who does not agree, and, depending on the total measured depth of the well, two hundred percent for wells less than five thousand feet deep, three hundred percent for wells five thousand feet deep but less than six thousand five hundred feet deep, and five hundred percent for wells six thousand five hundred feet deep or deeper, of all equipment including wellhead connections, casing, tubing, packers, and other downhole equipment and surface equipment, including, but not limited to, stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operation and a reasonable rate of interest on the unpaid balance. For the purpose of this section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a seven-eighths interest in and to such rights and a lessor to the extent of the remaining one-eighth interest therein.

(3) A certified copy of the order may be filed for record with the county clerk or register of deeds of the county, as the case may be, where the property involved is located, which recording shall constitute constructive notice thereof. The county clerk, or register of deeds, as the case may be, shall record the same in the real property records of the county and shall index the same against the property affected.

Source: Laws 1959, c. 262, § 9, p. 907; Laws 1978, LB 447, § 1; Laws 2011, LB458, § 1.

Annotations

Waste occurs when an owner in a pool produces more than his just and equitable share of the oil therefrom. *Ohmart v. Dennis*, 188 Neb. 260, 196 N.W.2d 181 (1972).

Pooling order herein was entered in conformity to requirements of act. *Farmers Irr. Dist. v. Schumacher*, 187 Neb. 825, 194 N.W.2d 788 (1972).

57-910. Unit or cooperative development; plans and agreements; authorization; not violations of law; approval by commission; effect. Plans and agreements for the unit or cooperative development and operation of a field or pool, or a part of either, including those in connection with the conduct of repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, water floods or any other method of operation, are authorized and may be performed, 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, if the plans and agreements are in the public interest, protective of correlative rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. If any such plan or agreement has been approved by the commission and an order authorizing unit operations has been entered by it pursuant to notice and hearing as provided in sections 57-910 to 57-910.12, it shall bind not only the persons who have executed such plan or agreement, but also all persons owning interests in oil and gas within the unit area.

Source: Laws 1959, c. 262, § 10, p. 908; Laws 1965, c. 343, § 1, p. 975.

57-910.01. Unit or cooperative development; application for order for unit operation; contents. Any owner may file an application with the commission requesting an order for the unit operation of a pool, pools, or parts thereof and for the pooling of the interests in the oil and gas in the proposed unit area for the purpose of conducting such unit operation. The application shall contain:

(1) A description of the land and pool, pools, or parts thereof to be so operated, termed the unit area;

(2) The names of all persons owning or having an interest in the oil and gas in the proposed unit area or the production therefrom, including mortgagees and the owners of other liens or encumbrances, as disclosed by the public records in the county in which the unit area is situated and their addresses, if known. If the name or address of any person is unknown, the application shall so indicate;

(3) A statement of the type of the operations contemplated in order to effectuate the purposes of sections 57-910 to 57-910.12;

(4) A proposed plan of unitization applicable to the proposed unit area which the petitioner considers fair, reasonable, and equitable; and

(5) A proposed operating plan covering the manner in which the unit will be supervised and managed and costs allocated and paid, unless all owners within the unit area have already executed an operating agreement covering such supervision, management, and allocation and payment of costs.

Source: Laws 1965, c. 343, § 2, p. 976.

57-910.02. Unit or cooperative development; hearing; notice. Upon filing of an application for an order providing for the unit operation of a pool, pools, or part thereof, and for the pooling of the interests in the oil and gas in the proposed unit area, the commission shall promptly set the matter for hearing and in addition to the notice otherwise required by section 57-911 or the commission rules shall cause notice of the hearing to be given by certified mail at least fifteen days prior to the date of hearing to all persons whose names are required to be set forth in such application.

Source:Laws 1965, c. 343, § 3, p. 976; Laws 1967, c. 354, § 1, p. 939.

57-910.03. Unit or cooperative development; findings required; entry of order; written consents required; revocation of order. If after considering the application and hearing the evidence offered in connection therewith the commission finds that:

(1) The material averments of the application are true;

(2) Such unit operation is feasible, will prevent waste, and can reasonably be expected to increase substantially the ultimate recovery of oil or gas, or both;

(3) The value of the estimated additional recovery of oil or gas will exceed the estimated additional costs incident to conducting unit operations;

(4) The oil and gas allocated to each separately owned tract within the unit area under the proposed plan of unitization represents, so far as can be practicably determined, each such tract's just and equitable share of the oil and gas, or both, in the unit area; and

(5) In case there are owners who have not executed an operating agreement or agreed to the proposed operating plan, that such proposed operating plan:

(a) Makes a fair and equitable adjustment among the owners within the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment which are contributed to the unit operation;

(b) Provides for a fair and equitable determination of the cost of unit operations, including capital investment, and establishes a fair and equitable method for allocating such costs to the separately owned tracts and for payment of such costs by the owners of such tracts, either directly or out of such owner's respective shares of unit production;

(c) Establishes, if necessary, a fair and equitable method for carrying or otherwise financing any owner who elects to be carried, or otherwise financed, allowing a reasonable interest charge for such service payable out of such owner's share of the unit production; and

(d) Provides that each owner shall have a vote in the supervision and conduct of unit operations corresponding to the percentage of the costs of unit operations chargeable against the interest of such owner; then the commission shall enter an order setting forth such findings and approving the proposed plan of unitization and proposed operating plan, if any. No order shall be entered by the commission authorizing the commencement of unit operations unless and until there has been written consent to the proposed plan of unitization by those persons who own at least seventy-five percent of the unit production or proceeds thereof and to the proposed operating plan, if any, by those persons who will be required to pay at least sixty-five percent of the costs of the unit operation. If such consent has not been obtained at the time the order of approval is made, the commission shall, upon application, hold such supplemental hearings and make such findings as may be required to determine if there has been such consent so that a supplemental order authorizing the commencement of unit operations can be entered. Notice of any such supplemental hearing shall be given, by mail to each person who has previously entered his or her appearance, at least ten days prior to such supplemental hearing. If the required percentages of consent have not been obtained within a period of six months from the date on which the order of approval is made, such order shall be ineffective and shall be revoked by the commission unless, for good cause shown, the commission extends that time.

Source:Laws 1965, c. 343, § 4, p. 977; Laws 1967, c. 355, § 1, p. 942; Laws 1984, LB 1032, § 1.

Annotations

The possible advantage in delay to nonpooling owners by being carried or otherwise financed may be lessened or offset by allowance of a cost item for risk capital. *Ohmart v. Dennis*, 188 Neb. 260, 196 N.W.2d 181 (1972).

57-910.04. Repealed. Laws 1984, LB 1032, § 2.

57-910.05. Unit or cooperative development; order for unit operation; allocation of unit production. Upon application by an owner the commission, by order, may, in the same manner and subject to the same conditions as in an original order, provide for the unit operation of a pool or pools, or parts thereof, that embrace a unit area established by a previous order of the commission. Such order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportions as those specified in the previous order.

Source: Laws 1965, c. 343, § 6, p. 979.

57-910.06. Unit or cooperative development; operations upon any portion of unit area; effect. All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the unit area by the several owners thereof. The portion of the unit production allocated to a separately owned tract in a unit area shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon. Operations conducted pursuant to an order of the commission providing for unit operations shall constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the orders of the commission.

Source: Laws 1965, c. 343, § 7, p. 979.

57-910.07. Unit or cooperative development; unit production; allocation; property of several owners. The portion of the unit production allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations.

Source: Laws 1965, c. 343, § 8, p. 980.

57-910.08. Unit or cooperative development; division orders; no termination by commission. No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by any commission order, but shall remain in force and apply to oil and gas allocated to such tract until terminated in accordance with the provisions thereof.

Source:Laws 1965, c. 343, § 9, p. 980.

57-910.09. Unit or cooperative development; commission order not to result in transfer of title. Except to the extent that the parties affected so agree, no commission order shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area.

Source:Laws 1965, c. 343, § 10, p. 980.

57-910.10. Unit or cooperative development; lien of operator; establishment and enforcement; effect on nonconsenting owner. Subject to the limitations set forth in sections 57-910 to 57-910.12, and to such further limitations as may be set forth in the plan of unitization and operating plan, the operator of the unit shall have a first and prior lien for costs incurred pursuant to the plan of unitization and operating plan upon each owner's oil and gas rights and his share of unitized production to secure the payment of such owner's proportionate part of the cost of developing and operating the unit area. The lien may be established and enforced in the same manner as is provided by sections 57-801 to 57-820. For such purposes any nonconsenting owner shall be deemed to have contracted with the unit operator for his proportionate part of the cost of developing and operating the unit area.

Source: Laws 1965, c. 343, § 11, p. 980.

Annotations

The possible advantage in delay to nonpooling owners by being carried or otherwise financed may be lessened or offset by allowance of a cost item for risk capital. *Ohmart v. Dennis*, 188 Neb. 260, 196 N.W.2d 181 (1972).

57-910.11. Unit or cooperative development; owner of land not subject to lease; obligation to pay share of costs of unit operation; effect. Notwithstanding any provisions in sections 57-910 to 57-910.12 to the contrary, any person who owns an oil or gas interest within the unit area in a tract which is not subject to an oil and gas lease or similar contract shall be deemed, for purposes of this section, an owner obligated to pay costs of unit operations to the extent of seven-eighths of such interest and shall be deemed a royalty owner to the extent of one-eighth of such interest free from such costs.

Source: Laws 1965, c. 343, § 12, p. 980.

57-910.12. Unit or cooperative development; certified order of commission; recording; effect as notice. A certified copy of any order of the commission entered under any provisions of sections 57-910 to 57-910.12 shall be entitled to be recorded in the office of the register of deeds for the counties where all or any portion of the unit area is located, and such recordation shall constitute notice thereof to all persons.

Source: Laws 1965, c. 343, § 13, p. 981.

57-911. Commission; rules and regulations; filing fee.

(1) The commission shall prescribe rules and regulations governing the practice and procedure before the commission.

(2) No rule, regulation, or order, or amendment thereof, except in an emergency, shall be made by the commission without a public hearing upon at least fifteen days' notice. The public

hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard.

(3) When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without notice or hearing which shall be effective upon promulgation. No emergency order shall remain effective for more than twenty days.

(4) Any notice required by the provisions of sections 57-901 to 57-921, except in proceedings involving a direct complaint by the commission, shall be given at the election of the commission either by personal service, registered or certified mail, or one publication in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. The notice shall be issued in the name of the state, shall be signed by a member of the commission or its secretary, and shall specify the style and number of the proceedings, the time and place of the hearing, and the purpose of the proceeding. Should the commission notice be by personal service, such service may be made by any officer authorized to serve summons, or by any agent of the commission, in the same manner and extent as is provided by law for the service of summons in civil actions in the district courts of this state. Proof of the service by such agent shall be by his or her affidavit and proof of service by an officer shall be in the form required by law with respect to service of process in civil actions. In all cases where a complaint is made by the commission or the Director of the Nebraska Oil and Gas Conservation Commission that any part of any provision of sections 57-901 to 57-921, or any rule, regulation, or order of the commission is being violated, notice of the hearing to be held on such complaint shall be served on the interested parties in the same manner as is provided in the code of civil procedure for the service of process in civil actions in the district courts of this state. In addition to notices required by this section, the commission may provide for further notice of hearing in such proceedings as it may deem necessary in order to notify all interested persons of the pendency of such proceedings and the time and place of hearing and to afford such persons an opportunity to appear and be heard.

(5) All rules, regulations, and orders issued by the commission shall be in writing, shall be entered in full and indexed in books to be kept by the commission for that purpose, shall be public records open for inspection at all times during reasonable office hours, and shall be filed as provided by the Administrative Procedure Act. A copy of any rule, regulation, or order certified by any member of the commission, or its secretary, under its seal, shall be received in evidence in all courts of this state with the same effect as the original.

(6) The commission may act upon its own motion or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within thirty days after the hearing.

(7) A petition filed with the commission for a public hearing shall be accompanied by a filing fee of two hundred fifty dollars.

Source: Laws 1959, c. 262, § 11, p. 908; Laws 1961, c. 279, § 1, p. 816; Laws 1967, c. 354, § 2, p. 939; Laws 1967, c. 356, § 1, p. 944; Laws 1995, LB 407, § 2.

Cross References

Administrative Procedure Act, see section 84-920.

Annotations

The requirement that the commission enter its order within thirty days after hearing is directory, not mandatory. *Ohmart v. Dennis*, 188 Neb. 260, 196 N.W.2d 181 (1972).

Rule 13(b) adopted hereunder establishes regulations for all wells drilled to sources of supply at estimated depth exceeding two thousand five hundred feet where no spacing pattern has been established by existing wells. *Farmers Irr. Dist. v. Schumacher*, 187 Neb. 825, 194 N.W.2d 788 (1972).

57-912. Commission; witnesses; power of subpoena; failure to appear or testify; contempt.

(1) The commission shall have the power to summon witnesses, to administer oaths and to require the production of records, books and documents for examination at any hearing or investigation conducted by it. Any oral or documentary evidence may be received, but the commission shall as a matter of policy provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence, and no decision shall be rendered, sanction imposed or rule or order issued except on consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with a preponderance of the reliable probative and substantial evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of facts. No person shall be excused from attending and testifying, or from producing books, papers and records before the commission or a 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 in this subsection 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 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, in spite of his objection, 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.

(2) In case of failure or refusal on the part of any person to comply with the subpoena issued by the commission, or in case of the refusal of any witness to testify as to any matter regarding which he may be lawfully interrogated, any district court in the state, upon the 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 records, books and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

Source: Laws 1959, c. 262, § 12, p. 910.

57-913. Appeal; procedure. Any person having an interest in property affected by and who is dissatisfied with any rule, regulation, or order made or issued under sections 57-901 to 57-921 may appeal the rule, regulation, or order, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1959, c. 262, § 13, p. 911; Laws 1961, c. 280, § 1, p. 818; Laws 1967, c. 357, § 1, p. 946; Laws 1988, LB 352, § 101.

Cross References

Administrative Procedure Act, see section 84-920.

57-914. Temporary restraining order; bond; limitation of actions.

(1) No temporary restraining order or injunction of any kind against the commission or its agents, employees or representatives, or the Attorney General, shall become operative unless and until the plaintiff party shall execute and file with the clerk of the district court a bond in such amount and upon such conditions as the court issuing such order or injunction may direct, with surety approved by the clerk of the district court thereof. The bond shall be made payable to the State of Nebraska, and shall be for the use and benefit of all persons who may be and to the extent that they shall suffer injury or damage by any acts done under the protection of the restraining order or injunction, if the same should not have issued. No suit on the bond may be brought after six months from the date of the final determination of the suit in which the restraining order or injunction was issued.

(2) Any suit, action, or other proceedings based upon a violation of any of the provisions of sections 57-901 to 57-921 shall be commenced within one year from the date of the violation complained of.

Source: Laws 1959, c. 262, § 14, p. 912.

57-915. Violations; penalty.

(1) Any person who violates any provision of sections 57-901 to 57-921, or any rule, regulation or order of the commission shall be guilty of a Class II misdemeanor. Each day that such violation continues shall constitute a separate offense.

(2) If any person, for the purpose of evading the provisions of sections 57-901 to 57-921, or any rule, regulation or order of the commission, shall make or cause to be made any false entry or statement in a report required by the provisions of sections 57-901 to 57-921, or by any such rule, regulation or order, or shall make or cause to be made any false entry in any record, account or memorandum required by the provisions of sections 57-901 to 57-921, or by any such rule, regulation or order, or shall remove from this state or destroy, mutilate, alter or falsify any such record, account or memorandum, such person shall be guilty of a Class II misdemeanor.

(3) Any person knowingly aiding or abetting any other person in the violation of any provision of sections 57-901 to 57-921, or any rule, regulation or order of the commission shall be subject to the same penalty as that prescribed by the provisions of sections 57-901 to 57-921 for the violation by such other person.

(4) The penalties provided in this section shall be recoverable by suit filed by the Attorney General in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there be more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty shall not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation.

Source: Laws 1959, c. 262, § 15, p. 913; Laws 1977, LB 39, § 59.

57-916. Violations; injunction; parties; process.

(1) Whenever it appears that any person is violating or threatening to violate any provision of sections 57-901 to 57-921, or any rule, regulation or order of the commission, the commission shall bring suit against such person in the district court of any county where the violation occurs or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. Upon the filing of any such suit, summons issued to such person may be directed to the sheriff of any county in this state for service by such sheriff or his deputies. In any such suit, the court shall have jurisdiction and authority to issue, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant.

(2) If the commission shall fail to bring suit to enjoin a violation or threatened violation of any provision of sections 57-901 to 57-921, or any rule, regulation, or order of the commission, within ten days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring suit in his own behalf to restrain such violation or threatened violation in any court in which the commission might have brought suit. The commission shall be made a party defendant in such suit in addition to the person violating or threatening to violate a provision of sections 57-901 to 57-921, or a rule, regulation or order of the commission, and the action shall proceed and injunctive relief may be granted in the same manner as if suit had been brought by the commission; *Provided*, that in such event the person bringing suit shall be required to give bond in accordance with the rules of civil procedure in the district courts.

Source: Laws 1959, c. 262, § 16, p. 914.

57-917. Commission; director; appointment; compensation; bond or insurance. To enable the commission to carry out its duties and powers under the laws of this state with respect to conservation of oil and gas and to enforce sections 57-901 to 57-921 and the rules and regulations so prescribed, the commission shall employ one chief administrator who shall not be a member of the commission and who shall be known as the Director of the Nebraska Oil and Gas Conservation Commission, and as such he or she shall be charged with the duty of administering and enforcing the provisions of sections 57-901 to 57-921 and all rules,

regulations, and orders promulgated by the commission, subject to the direction of the commission. The director shall be a qualified petroleum engineer with not less than three years' actual field experience in the drilling and operation of oil and gas wells. Such director shall hold office at the pleasure of the commission and receive a salary to be fixed by the commission. The director, with the concurrence of the commission, shall have the authority, and it shall be his or her duty, to employ assistants and other employees necessary to carry out the provisions of sections 57-901 to 57-921. The director shall be ex officio secretary of the Nebraska Oil and Gas Conservation Commission and shall keep all minutes and records of the commission. The director shall, as secretary, be bonded or insured as required by section 11-201. The premium shall be paid by the State of Nebraska. The director and other employees of the commission performing duties authorized by sections 57-901 to 57-921 shall be paid their necessary traveling and living expenses when traveling on official business at such rates and within such limits as may be fixed by the commission, subject to existing laws.

Source: Laws 1959, c. 262, § 17, p. 914; Laws 1978, LB 653, § 19; Laws 2004, LB 884, § 31.

57-918. Attorney General; act as legal advisor; administration of oath. The Attorney General shall be the attorney for the Nebraska Oil and Gas Conservation Commission; *Provided*, that in cases of emergency or in other special cases the commission may, with the consent of the Attorney General retain additional legal counsel, and for such purpose may use any funds available under the provisions of sections 57-901 to 57-921. Any member of the commission, or the secretary thereof, shall have the power to administer oaths to any witness in any hearing, investigation or proceeding contemplated by sections 57-901 to 57-921 or by any other law of this state relating to the conservation of oil and gas.

Source: Laws 1959, c. 262, § 18, p. 915.

57-919. Oil and Gas Conservation Fund; investment; charges; exemptions; payment; report of producer; filing; interest; lien; penalties.

(1) All money collected by the Tax Commissioner or the commission or as civil penalties under sections 57-901 to 57-921 shall be remitted to the State Treasurer for credit to a special fund to be known as the Oil and Gas Conservation Fund. Expenses incident to the administration of such sections shall be paid out of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Oil and Gas Conservation Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) There is hereby levied and assessed on the value at the well of all oil and gas produced, saved, and sold or transported from the premises in Nebraska where produced a charge not to exceed fifteen mills on the dollar. The commission shall by order fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof as in its judgment the expenses chargeable against the Oil and Gas Conservation Fund may require, except that the amounts fixed by the commission shall not exceed the limit prescribed in this section. It shall be the duty of the Tax Commissioner to make collection of such assessments. The persons owning an interest, a working interest, a royalty interest, payments out of

production, or any other interest in the oil and gas, or in the proceeds thereof, subject to the charge provided for in this section shall be liable to the producer for such charge in proportion to their ownership at the time of production. The producer shall, on or before the last day of the month next succeeding the month in which the charge was assessed, file a report or return in such form as prescribed by the commission and Tax Commissioner together with all charges due. In the event of a sale of oil or gas within this state, the first purchaser shall file this report or return together with any charges then due. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such reports or returns shall be considered filed on time if postmarked before midnight of the final filing date. Any such charge not paid within the time herein specified shall bear interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date of delinquency until paid, and such charge together with the interest shall be a lien as provided in section 57-702. The Tax Commissioner shall charge and collect a penalty for the delinquency in the amount of one percent of the charge for each month or part of the month that the charge has remained delinquent, but in no event shall the penalty be more than twenty-five percent of the charge. The Tax Commissioner may waive all or part of the penalty provided in this section but shall not waive the interest. The person remitting the charge as provided in this section is hereby authorized, empowered, and required to deduct from any amounts due the persons owning an interest in the oil and gas or in the proceeds thereof at the time of production the proportionate amount of such charge before making payment to such persons. This subsection shall apply to all lands in the State of Nebraska, anything in section 57-920 to the contrary notwithstanding, except that there shall be exempted from the charge levied and assessed in this section the following: (a) The interest of the United States of America and the interest of the State of Nebraska and the political subdivisions thereof in any oil or gas or in the proceeds thereof; (b) the interest of any Indian or Indian tribe in any oil or gas or in the proceeds thereof produced from land subject to the supervision of the United States; and (c) oil and gas used in producing operations or for repressuring or recycling purposes. All money so collected shall be remitted to the State Treasurer for credit to the Oil and Gas Conservation Fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of sections 57-901 to 57-921.

Source: Laws 1959, c. 262, § 19, p. 915; Laws 1969, c. 584, § 56, p. 2380; Laws 1973, LB 527, § 1; Laws 1974, LB 804, § 2; Laws 1980, LB 709, § 3; Laws 1981, LB 167, § 33; Laws 1983, LB 224, § 8; Laws 1986, LB 1027, § 198; Laws 1992, Fourth Spec. Sess., LB 1, § 8; Laws 1994, LB 1066, § 44; Laws 1995, LB 407, § 3; Laws 1997, LB 97, § 1; Laws 2009, First Spec. Sess., LB3, § 33.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

57-920. Sections; jurisdiction. The State of Nebraska being a sovereign state and not disposed to jeopardize or surrender any of its sovereign rights, sections 57-901 to 57-921 shall apply to all lands in the State of Nebraska lawfully subject to its police powers; *Provided*, it shall apply to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its

lands shall fail to effect the intent and purposes of sections 57-901 to 57-921 and otherwise shall apply to such lands to such extent as an officer of the United States having jurisdiction, or his duly authorized representative, shall approve any of the provisions of sections 57-901 to 57-921 or the order or orders of the commission which affects such lands; *and provided further*, the same shall apply to any lands committed to a unit agreement approved by the Secretary of the Interior of the United States, or his duly authorized representative, except that the commission may, under such unit agreements, suspend the application of the provisions of sections 57-901 to 57-921 or any part of sections 57-901 to 57-921 so long as the conservation of oil and gas and the prevention of waste, as provided in sections 57-901 to 57-921, is accomplished thereby but such suspension shall not relieve any operator from making such reports as are necessary or advised to be fully informed as to operations under such agreement and as the commission may require under the provisions of sections 57-901 to 57-921.

Source: Laws 1959, c. 262, § 20, p. 917.

Annotations

The commission is authorized to suspend the operation of the conservation act in certain situations subject to the requirement that conservation and prevention of waste be accomplished. *Ohmart v. Dennis*, 188 Neb. 260, 196 N.W.2d 181 (1972).

57-921. Commission; price or value of oil, gas, or other hydrocarbon substances; no power to fix. Notwithstanding anything heretofore contained in sections 57-901 to 57-921, the Nebraska Oil and Gas Conservation Commission shall have no authority to establish, fix or in any way control the price or value of oil, gas, other hydrocarbon substances or any of the products or component parts thereof.

Source: Laws 1959, c. 262, § 21, p. 917.

57-922. Oil and Gas Conservation Trust Fund; receipts; disbursements. There is hereby created in the state treasury a special fund to be known as the Oil and Gas Conservation Trust Fund. All sums of money received by the Nebraska Oil and Gas Conservation Commission, in a manner other than as provided in sections 57-901 to 57-921, shall be paid into the state treasury and the State Treasurer shall deposit the money in the Oil and Gas Conservation Trust Fund. The State Treasurer shall disburse the money in the trust fund as directed by resolution of the Nebraska Oil and Gas Conservation Commission. All disbursements for the fund shall be made upon warrants drawn by the Director of Administrative Services.

Source: Laws 1973, LB 119, § 1.

57-923. Well Plugging and Abandonment Trust Fund; created; use; investment; inactive oil or gas well; fee. The Well Plugging and Abandonment Trust Fund is created. The Nebraska Oil and Gas Conservation Commission shall adopt and promulgate rules and regulations that provide for the collection of a fee for each inactive oil or gas well administered by the commission. The fee shall not exceed two hundred dollars per well per year and shall not be imposed unless an oil or gas well has been inactive for two years or longer. The commission shall remit such fees to the State Treasurer for credit to the fund. The fund shall be used by the commission for the purpose of plugging and abandoning oil or gas wells and completing the

required surface restoration if the bonded operator is unable to fulfill such operator's financial obligation. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1999, LB 293, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.