

NEBRASKA OIL AND GAS CONSERVATION STATUTE

Chapter 57, Revised Statutes of Nebraska

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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.