

the new rule, so where the New Mexico oil conservation commission (commission) adopted a rule in 2013 that differed from a rule adopted in 2008, despite being based on identical evidence, the new rule was not arbitrary and capricious where the commission enumerated its reasons for adopting the 2013 rule, gave detailed explanations for the standards and requirements that it created in the 2013 rule and, in its order promulgating the rule, provided additional basis for, and reasoning behind, adopting the 2013 rule. Petitioners failed to meet their burden of demonstrating that the 2013 rule is not reasonably related to the commission's legislative purpose. *Earthworks' Oil & Gas Accountability Project v. N.M. Oil Conservation Comm'n*, 2016-NMCA-055, cert. denied.

Former act to prohibit waste. — There was no delegation to the commission of power to make law or determine what it shall be in the former Oil Conservation Act, but act was, in effect, a prohibition against waste. 1951 Op. Att'y Gen. No. 51-5397.

Law reviews. — For comment on *Cont'l Oil Co. v. Oil Conservation Comm'n*, 70 N.M. 310, 373 P.2d 809 (1962), see 3 Nat. Res. J. 178 (1963).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 38 Am. Jur. 2d Gas and Oil §§ 145 to 148, 157.

58 C.J.S. Mines and Minerals §§ 229, 234.

70-2-12. Enumeration of powers.

A. The oil conservation division of the energy, minerals and natural resources department may:

- (1) collect data;
- (2) make investigations and inspections;
- (3) examine properties, leases, papers, books and records;
- (4) examine, check, test and gauge oil and gas wells, tanks, plants, refineries and all means and modes of transportation and equipment;
- (5) hold hearings;
- (6) provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports;
- (7) limit and prorate production of crude petroleum oil or natural gas or both as provided in the Oil and Gas Act; and

(8) require either generally or in particular areas certificates of clearance or tenders in connection with the transportation of crude petroleum oil or natural gas or any products of either or both oil and products or both natural gas and products.

B. The oil conservation division may make rules and orders for the purposes and with respect to the subject matter stated in this subsection:

(1) to require dry or abandoned wells to be plugged in a way so as to confine the crude petroleum oil, natural gas or water in the strata in which it is found and to prevent it from escaping into other strata; pursuant to Section 70-2-14 NMSA 1978, the division shall require financial assurance conditioned for the performance of the rules;

(2) to prevent crude petroleum oil, natural gas or water from escaping from strata in which it is found into other strata;

(3) to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports;

(4) to prevent the drowning by water of any stratum or part thereof capable of producing oil or gas or both oil and gas in paying quantities and to prevent the premature and irregular encroachment of water or any other kind of water encroachment that reduces or tends to reduce the total ultimate recovery of crude petroleum oil or gas or both oil and gas from any pool;

(5) to prevent fires;

(6) to prevent "blow-ups" and "caving" in the sense that the conditions indicated by such terms are generally understood in the oil and gas business;

(7) to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties;

(8) to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities;

(9) to require the operation of wells with efficient gas-oil ratios and to fix such ratios;

(10) to fix the spacing of wells;

(11) to determine whether a particular well or pool is a gas or oil well or a gas or oil pool, as the case may be, and from time to time to classify and reclassify wells and pools accordingly;

(12) to determine the limits of any pool producing crude petroleum oil or natural gas or both and from time to time redetermine the limits;

(13) to regulate the methods and devices employed for storage in this state of oil or natural gas or any product of either, including subsurface storage;

(14) to permit the injection of natural gas or of any other substance into any pool in this state for the purpose of repressuring, cycling, pressure maintenance, secondary or any other enhanced recovery operations;

(15) to regulate the disposition, handling, transport, storage, recycling, treatment and disposal of produced water during, or for reuse in, the exploration, drilling, production, treatment or refinement of oil or gas, including disposal by injection pursuant to authority delegated under the federal Safe Drinking Water Act, in a manner that protects public health, the environment and fresh water resources;

(16) to determine the limits of any area containing commercial potash deposits and from time to time redetermine the limits;

(17) to regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect unduly to reduce the total quantity of the commercial deposits of potash that may reasonably be recovered in commercial quantities or where the operations would interfere unduly with the orderly commercial development of the potash deposits;

(18) to spend the oil and gas reclamation fund and do all acts necessary and proper to plug dry and abandoned oil and gas wells and to restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules adopted under that act and the Procurement Code [13-1-28 to 13-1-199 NMSA 1978], including disposing of salvageable equipment and material removed from oil and gas wells being plugged by the state;

(19) to make well price category determinations pursuant to the provisions of the federal Natural Gas Policy Act of 1978 or any successor act and, by regulation, to adopt fees for such determinations, which fees shall not exceed twenty-five dollars (\$25.00) per filing. Such fees shall be credited to the account of the oil conservation division by the state treasurer and may be expended as authorized by the legislature;

(20) to regulate the construction and operation of oil treating plants and to require the posting of bonds for the reclamation of treating plant sites after cessation of operations;

(21) to regulate the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment; and

(22) to regulate the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil to protect public health and the environment, including administering the Water Quality Act [Chapter 74, Article 6 NMSA 1978] as provided in Subsection E of Section 74-6-4 NMSA 1978.

History: 1953 Comp., § 65-3-11, enacted by Laws 1978, ch. 71, § 1; 1986, ch. 76, § 1; 1987, ch. 234, § 61; 1989, ch. 289, § 1; 1996, ch. 72, § 2; 2004, ch. 87, § 2; 2018, ch. 16, § 1; 2019, ch. 197, § 6.

ANNOTATIONS

Repeals and reenactments. — Laws 1978, ch. 71, § 1, repealed 65-3-11, 1953 Comp. (former 70-2-12 NMSA 1978), relating to enumeration of powers, and enacted a new 70-2-12 NMSA 1978.

Cross references. — For filing rules and regulations, see 14-4-3 NMSA 1978.

For public utilities commission's lack of power to regulate sale price at wellhead, see 62-6-4 NMSA 1978.

For the federal Natural Gas Policy Act of 1978, see 15 U.S.C. § 3301 et seq.

The 2019 amendment, effective July 1, 2019, authorized the oil conservation division of the energy, minerals and natural resources department to make rules and orders to regulate the disposition, handling, transport, storage, recycling, treatment and disposal of produced water; and in Subsection B, Paragraph B(15), after "regulate the disposition", deleted "of water produced or used in connection with the drilling for or producing of oil or gas or both and to direct surface or subsurface disposal of the water, including disposition by use in drilling for or production of oil or gas, in road construction or maintenance or other construction, in the generation of electricity or in other industrial processes, in a manner that will afford reasonable protection against contamination of fresh water supplies designated by the state engineer" and added the remainder of the paragraph.

Applicability. — Laws 2019, ch. 197, § 12 provided that the provisions of Laws 2019, ch. 197 apply to contracts entered into on and after July 1, 2019.

The 2018 amendment, effective May 16, 2018, aligned the financial assurance requirements of this section with Section 70-2-14 NMSA 1978 for the plugging of dry or abandoned wells, and made stylistic changes throughout; in Subsection A, in the introductory clause, deleted "Included in the power given to", and after "natural resources department", deleted "is the authority to" and added "may", and added paragraph designations "(1)" through "(8)"; and in Subsection B, in the introductory clause, deleted "Apart from any authority, express or implied, elsewhere given to or existing in the oil conservation division by virtue of the Oil and Gas Act or the statutes of

History: 1953 Comp., § 65-9-7, enacted by Laws 1963, ch. 139, § 7; 1977, ch. 255, § 72; 1981, ch. 125, § 53.

ANNOTATIONS

Cross references. — For telegraph and telephone companies' right of eminent domain, see 42A-2-2 to 42A-2-4 NMSA 1978.

For railroads' right of eminent domain, see 42A-2-3 and 42A-2-4 NMSA 1978.

70-6-8. Ownership of injected gas.

All natural gas which has previously been reduced to possession, and which is subsequently injected into underground storage in any strata or formation shall at all times be deemed the property of the injector, his heirs, successors or assigns; and in no event shall such gas be subject to the right of the owner of the surface of said lands or of any mineral interest therein, under which said strata or formation lie, or of any person other than the injector, his heirs, successors and assigns, to produce, take, reduce to possession, waste or otherwise interfere with or exercise any control thereover, provided that the injector, his heirs, successors and assigns shall have no right to gas in any stratum, formation or portion thereof, in which storage rights have not been acquired pursuant to this act [70-6-1 to 70-6-8 NMSA 1978], or otherwise purchased.

History: 1953 Comp., § 65-9-8, enacted by Laws 1963, ch. 139, § 8.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — Rights and liabilities with respect to natural gas reduced to possession and subsequently stored in natural reservoir, 94 A.L.R.2d 543.

ARTICLE 7

Statutory Unitization Act

70-7-1. Purpose of act.

The legislature finds and determines that it is desirable and necessary under the circumstances and for the purposes hereinafter set out to authorize and provide for the unitized management, operation and further development of the oil and gas properties to which the Statutory Unitization Act is applicable, to the end that greater ultimate recovery may be had therefrom, waste prevented, and correlative rights protected of all owners of mineral interests in each unitized area. It is the intention of the legislature that the Statutory Unitization Act apply to any type of operation that will substantially increase the recovery of oil above the amount that would be recovered by primary recovery alone and not to what the industry understands as exploratory units.

History: 1953 Comp., § 65-14-1, enacted by Laws 1975, ch. 293, § 1.

ANNOTATIONS

Law reviews. — For article, "On an Institutional Arrangement for Developing Oil and Gas in the Gulf of Mexico," see 26 Nat. Res. J. 717 (1986).

70-7-2. Short title.

This act [70-7-1 to 70-7-21 NMSA 1978] may be cited as the "Statutory Unitization Act."

History: 1953 Comp., § 65-14-2, enacted by Laws 1975, ch. 293, § 2.

70-7-3. Additional powers and duties of the oil conservation division.

Subject to the limitations of the Statutory Unitization Act, the oil conservation division of the energy, minerals and natural resources department, hereinafter referred to as the "division", is vested with jurisdiction, power and authority and it shall be its duty to make and enforce such orders and do such things as may be necessary or proper to carry out and effectuate the purposes of the Statutory Unitization Act.

History: 1953 Comp., § 65-14-3, enacted by Laws 1975, ch. 293, § 3; 1977, ch. 255, § 109; 1987, ch. 234, § 67.

ANNOTATIONS

The 1987 amendment, effective July 1, 1987, substituted "energy, minerals and natural resources" for "energy and minerals" and made minor changes in language.

70-7-4. Definitions.

For the purposes of the Statutory Unitization Act, unless the context otherwise requires:

A. "pool" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure, which zone is completely separate from any other zone in the structure, is covered by the word pool as used herein. Pool is synonymous with "common source of supply" and with "common reservoir";

B. "oil and gas" means crude oil, natural gas, casinghead gas, condensate or any combination thereof;

C. "waste," in addition to its meaning in Section 70-2-3 NMSA 1978, shall include both economic and physical waste resulting, or that could reasonably be expected to result, from the development and operation separately of tracts that can best be developed and operated as a unit;

D. "working interest" means an interest in unitized substances by virtue of a lease, operating agreement, fee title or otherwise, excluding royalty owners, owners of overriding royalties, oil and gas payments, carried interests, mortgages and lien claimants but including a carried interest, the owner of which is primarily obligated to pay, either in cash or out of production or otherwise, a portion of the unit expense; however, oil and gas rights that are free of lease or other instrument creating a working interest shall be regarded as a working interest to the extent of seven-eighths thereof and a royalty interest to the extent of the remaining one-eighth thereof;

E. "working interest owner" or "lessee" means a person who owns a working interest;

F. "royalty interest" means a right to or interest in any portion of the unitized substances or proceeds thereof other than a working interest;

G. "royalty owner" means a person who owns a royalty interest;

H. "unit operator" means the working interest owner, designated by working interest owners under the unit operating agreement or the division to conduct unit operations, acting as operator and not as a working interest owner;

I. "basic royalty" means the royalty reserved in the lease but in no event exceeding one-eighth; and

J. "relative value" means the value of each separately owned tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable therefrom, location on structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operation to which the tract will or is likely to be subjected, or so many of said factors, or such other pertinent engineering, geological, operating or pricing factors, as may be reasonably susceptible of determination.

History: 1953 Comp., § 65-14-4, enacted by Laws 1975, ch. 293, § 4; 1977, ch. 255, § 110.

70-7-5. Requisites of application for unitization.

Any working interest owner may file an application with the division requesting an order for the unit operation of a pool or any part thereof. The application shall contain:

- A. a description of the proposed unit area and the vertical limits to be included therein with a map or plat thereof attached;
- B. a statement that the reservoir or portion thereof involved in the application has been reasonably defined by development;
- C. a statement of the type of operations contemplated for the unit area;
- D. a copy of a proposed plan of unitization which the applicant considers fair, reasonable and equitable;
- E. a copy of a proposed operating plan covering the manner in which the unit will be supervised and managed and costs allocated and paid; and
- F. an allegation of the facts required to be found by the division under Section 70-7-6 NMSA 1978.

History: 1953 Comp., § 65-14-5, enacted by Laws 1975, ch. 293, § 5; 1977, ch. 255, § 111.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 38 Am. Jur. 2d Gas and Oil §§ 164, 172.

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

70-7-6. Matters to be found by the division precedent to issuance of unitization order.

A. After an application for unitization has been filed with the division and after notice and hearing, all in the form and manner and in accordance with the procedural requirements of the division, and prior to reaching a decision on the petition, the division shall determine whether or not each of the following conditions exists:

(1) that the unitized management, operation and further development of the oil or gas pool or a portion thereof is reasonably necessary in order to effectively carry on pressure maintenance or secondary or tertiary recovery operations, to substantially increase the ultimate recovery of oil and gas from the pool or the unitized portion thereof;

(2) that one or more of the said unitized methods of operations as applied to such pool or portion thereof is feasible, will prevent waste and will result with reasonable

probability in the increased recovery of substantially more oil and gas from the pool or unitized portion thereof than would otherwise be recovered;

(3) that the estimated additional costs, if any, of conducting such operations will not exceed the estimated value of the additional oil and gas so recovered plus a reasonable profit;

(4) that such unitization and adoption of one or more of such unitized methods of operation will benefit the working interest owners and royalty owners of the oil and gas rights within the pool or portion thereof directly affected;

(5) that the operator has made a good faith effort to secure voluntary unitization within the pool or portion thereof directly affected; and

(6) that the participation formula contained in the unitization agreement allocates the produced and saved unitized hydrocarbons to the separately owned tracts in the unit area on a fair, reasonable and equitable basis.

B. If the division determines that the participation formula contained in the unitization agreement does not allocate unitized hydrocarbons on a fair, reasonable and equitable basis, the division shall determine the relative value, from evidence introduced at the hearing, taking into account the separately owned tracts in the unit area, exclusive of physical equipment, for development of oil and gas by unit operations, and the production allocated to each tract shall be the proportion that the relative value of each tract so determined bears to the relative value of all tracts in the unit area.

C. When the division determines that the preceding conditions exist, it shall make findings to that effect and make an order creating the unit and providing for the unitization and unitized operation of the pool or portion thereof described in the order, all upon such terms and conditions as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and royalty owners.

History: 1953 Comp., § 65-14-6, enacted by Laws 1975, ch. 293, § 6; 1977, ch. 255, § 112.

70-7-7. Division orders.

The order providing for unitization and unit operation of a pool or part of a pool shall be upon terms and conditions that are fair, reasonable and equitable and shall approve or prescribe a plan or unit agreement for unit operation which shall include:

A. a legal description in terms of surface area of the pool or part of the pool to be operated as a unit and the vertical limits to be included, termed "the unit area";

B. a statement of the nature of the operations contemplated;

C. an allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, being the production that is not used in the conduct of operations on the unit area or not unavoidably lost;

D. a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operations;

E. a provision governing how the costs of unit operations, including capital investments, shall be determined and charged to the separately owned tracts and how the costs shall be paid, including a provision providing when, how and by whom the unit production allocated to an owner who does not pay the share of the costs of unit operations charged to that owner or the interest of that owner may be sold and the proceeds applied to the payment of costs;

F. a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production, upon such terms and conditions determined by the division to be just and reasonable and allowing an appropriate charge for interest for such service payable out of the owner's share of production; provided that any nonconsenting working interest owner being so carried shall be deemed to have relinquished to the unit operator all of its operating rights and working interest in and to the unit until his share of the costs are repaid, plus an amount not to exceed two hundred percent of such costs as a nonconsent penalty, with maximum penalty amount in each case to be determined by the division;

G. a provision designating the unit operator and providing for the supervision and conduct of the unit operations, including the selection, removal or substitution of an operator from among the working interest owners to conduct the unit operations;

H. a provision for a voting procedure for the decision of matters to be decided by the working interest owners in respect to which each working interest owner shall have a voting interest equal to its unit participation;

I. the time when the unit operation shall commence and the manner in which and the circumstances under which the operations shall terminate and for the settlement of accounts upon termination; and

J. such additional provisions as are found to be appropriate for carrying on the unit operations and for the protection of correlative rights and the prevention of waste.

History: 1953 Comp., § 65-14-7, enacted by Laws 1975, ch. 293, § 7; 1977, ch. 255, § 113; 1986, ch. 55, § 1.

ANNOTATIONS

The 1986 amendment, effective May 21, 1986, at the end of Subsection F, added the language following "in and to the unit until" and made minor stylistic changes throughout the section.

70-7-8. Ratification or approval of plan by owners.

A. No order of the division providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the division has been approved in writing by those persons who, under the division's order, will be required initially to pay at least seventy-five percent of the costs of the unit operations, and also by the owners of at least seventy-five percent of the production or proceeds thereof that will be credited to interests which are free of cost such as royalties, overriding royalties and production payments, and the division has made a finding either in the order providing for unit operations or in a supplemental order that the plan for unit operations has been so approved. Notwithstanding any other provisions of this section, if seventy-five percent or more of the unit area is owned, as to working interest, by one working interest owner, such working interest owner must be joined by at least one other working interest owner in ratifying and approving the plan of unit operations, unless such working interest owner is the owner of one hundred percent of the working interest in said unit area; provided, however, if a single owner is one who, under the division's order will be required initially to pay at least twenty-five percent, but not more than fifty percent, of the costs of unit operation, such owner must be joined by at least one other owner of the same type interest in disapproving, or failure to approve, the plan of unit operations to defeat the plan.

B. If one owner is the owner of at least twenty-five percent, but not more than fifty percent, of the production or proceeds thereof that will be credited to interests which are free of costs, such owner must be joined by at least one other owner of the same type interest in disapproving, or failure to approve, the plan of unit operations to defeat the plan.

C. If the persons owning the required percentage of interest in the unit area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, such order shall cease to be of further force and effect and shall be revoked by the division, unless the division shall extend the time for ratification for good cause shown.

D. When the persons owning the required percentage of interest in the unit area have approved the plan for unit operations, the interests of all persons in the unit are unitized whether or not such persons have approved the plan of unitization in writing.

History: 1953 Comp., § 65-14-8, enacted by Laws 1975, ch. 293, § 8; 1977, ch. 255, § 114.

70-7-9. Amendment of plan of unitization.

An order providing for unit operations may be amended by an order made by the division in the same manner and subject to the same conditions as an original order providing for unit operations, provided:

A. if such an amendment affects only the rights and interests of the working interest owners, the approval of the amendment by the royalty owners shall not be required; and

B. no such amendment shall change the percentage for the allocation of oil and gas as established for any separately owned tract by the original order, except with the consent of all working interest owners and royalty owners in such tract, or change the percentage for the allocation of costs as established for any separately owned tract by the original order, except with the consent of all working interest owners in such tract.

History: 1953 Comp., § 65-14-9, enacted by Laws 1975, ch. 293, § 9; 1977, ch. 255, § 115.

70-7-10. Previously established units.

The division, by order, may provide for the unit operation of a pool or parts thereof that embrace a unit area established by a previous order of the division. 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 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.

History: 1953 Comp., § 65-14-10, enacted by Laws 1975, ch. 293, § 10; 1977, ch. 255, § 116.

70-7-11. Unit operations of less than an entire pool.

An order may provide for unit operation on less than the whole of a pool where the unit area is of such size and shape as may be reasonably suitable for that purpose, and the conduct thereof will have no adverse effect upon other portions of the pool.

History: 1953 Comp., § 65-14-11, enacted by Laws 1975, ch. 293, § 11.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 38 Am. Jur. 2d Gas and Oil §§ 164, 172.

70-7-12. Operation; expressed or implied covenants.

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 portions 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 division providing for unit operations shall constitute a fulfillment of all the express or implied obligations for each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the order of the division.

History: 1953 Comp., § 65-14-12, enacted by Laws 1975, ch. 293, § 12; 1977, ch. 255, § 117.

ANNOTATIONS

Communitization agreement entered into with permission of prior fee owner supports implied surface access right over land subject to that agreement but not over land that is not subject to agreement. *Kysar v. Amoco Prod. Co.*, 2004-NMSC-025, 135 N.M. 767, 93 P.3d 1272.

70-7-13. Income from unitized substances.

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.

History: 1953 Comp., § 65-14-13, enacted by Laws 1975, ch. 293, § 13.

70-7-14. Lien for costs.

Subject to such reasonable limitations as may be set out in the plan of unitization, the unit shall have a first and prior lien upon the leasehold estate and other oil and gas rights (exclusive of a one-eighth royalty interest or exclusive of the interest provided in the unit operating plan which allocates costs, if it is different than one-eighth) in and to each separately owned tract, the interest of the owners thereof in and to the unit production and all equipment in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately owned tract.

History: 1953 Comp., § 65-14-14, enacted by Laws 1975, ch. 293, § 14.

70-7-15. Liability for expenses.

The obligation or liability of each working interest owner in the several separately owned tracts in the unit for the payment of unit expense at all times shall be several and not joint or collective, and a working interest owner shall not be chargeable with, obligated or liable for, directly or indirectly, more than the amount apportioned,

assessed or otherwise charged to his interest in the separately owned tract pursuant to the order of unitization.

History: 1953 Comp., § 65-14-15, enacted by Laws 1975, ch. 293, § 15.

70-7-16. Division orders.

A. No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to such tract until terminated in accordance with the provisions thereof.

B. For purposes of this section, "division order" shall mean a contract of sale to the purchaser of oil and gas.

History: 1953 Comp., § 65-14-16, enacted by Laws 1975, ch. 293, § 16; 1977, ch. 255, § 118.

70-7-17. Property rights.

Except to the extent that the parties affected so agree, no order providing for unit operations 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. All property, whether real or personal, that may be acquired in the conduct of unit operations hereunder shall be acquired for the account of the working interest owners within the unit area, and shall be the property of such working interest owners in the proportion that the costs of unit operations are charged.

History: 1953 Comp., § 65-14-17, enacted by Laws 1975, ch. 293, § 17.

70-7-18. Existing rights, rights in unleased land and royalties and lease burdens.

Property rights, leases, contracts and other rights or obligations shall be regarded as amended and modified only to the extent necessary to conform to the provisions and requirements of the Statutory Unitization Act and to any valid order of the division providing for the unit operation of a pool or a part thereof, but otherwise shall remain in full force and effect. A one-eighth part of the production allocated to each tract under an order providing for the unit operation of a pool or a part thereof shall in all events be and remain free and clear of any cost or expense of developing or operating the unit and of any lien therefor as an encumbered [unencumbered] source from which to pay the royalties or other cost-free obligations due or payable with respect to the production from such tract. If a lease or other contract pertaining to a tract or interest stipulates a royalty, overriding royalty, production payment or other obligation in excess of one-

eighth of the production or proceeds therefrom, then the working interest owner subject to such excess payment or other obligation shall bear and pay the same.

History: 1953 Comp., § 65-14-18, enacted by Laws 1975, ch. 293, § 18; 1977, ch. 255, § 119.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

70-7-19. Agreements not violative of laws governing monopolies or restraint of trade.

No agreement between or among lessees or other owners of oil and gas rights in oil and gas properties entered into pursuant hereto or with a view or for the purpose of bringing about the unitized development or operation of such properties shall be held to violate any of the statutes of this state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

History: 1953 Comp., § 65-14-19, enacted by Laws 1975, ch. 293, § 19.

70-7-20. Evidence of unit to be recorded.

A copy of each unit agreement shall be recorded in the office of the county clerk of the county or counties in which the unit is situated.

History: 1953 Comp., § 65-14-20, enacted by Laws 1975, ch. 293, § 20.

70-7-21. Unlawful operation.

From and after the date designated by the division that a unit plan shall become effective, the operation of any well producing from the pool within the area subject to said unit plan, by persons other than persons acting under the authority of the unit plan, or except in the manner and to the extent provided in such unit plan, shall be unlawful and is hereby prohibited.

History: 1953 Comp., § 65-14-21, enacted by Laws 1975, ch. 293, § 21; 1977, ch. 255, § 120.

ARTICLE 8

Emergency Petroleum Products Supplies (Recompiled.)