

**70-2-18. Spacing or proration unit with divided mineral ownership.**

A. Whenever the operator of any oil or gas well shall dedicate lands comprising a standard spacing or proration unit to an oil or gas well, it shall be the obligation of the operator, if two or more separately owned tracts of land are embraced within the spacing or proration unit, or where there are owners of royalty interests or undivided interests in oil or gas minerals which are separately owned or any combination thereof, embraced within such spacing or proration unit, to obtain voluntary agreements pooling said lands or interests or an order of the division pooling said lands, which agreement or order shall be effective from the first production. Any division order that increases the size of a standard spacing or proration unit for a pool, or extends the boundaries of such a pool, shall require dedication of acreage to existing wells in the pool in accordance with the acreage dedication requirements for said pool, and all interests in the spacing or proration units that are dedicated to the affected wells shall share in production from the effective date of the said order.

B. Any operator failing to obtain voluntary pooling agreements, or failing to apply for an order of the division pooling the lands dedicated to the spacing or proration unit as required by this section, shall nevertheless be liable to account to and pay each owner of minerals or leasehold interest, including owners of overriding royalty interests and other payments out of production, either the amount to which each interest would be entitled if pooling had occurred or the amount to which each interest is entitled in the absence of pooling, whichever is greater.

C. Nonstandard spacing or proration units may be established by the division and all mineral and leasehold interests in any such nonstandard unit shall share in production from that unit from the date of the order establishing the said nonstandard unit.

**History:** 1953 Comp., § 65-3-14.5, enacted by Laws 1969, ch. 271, § 1; 1977, ch. 255, § 52.

**ANNOTATION**

**Constitutionality.** — Standards of preventing waste and protecting correlative rights, as laid out in 70-2-11 NMSA 1978, are sufficient to allow commission's power to prorate and create standard or nonstandard spacing units to remain intact, and this section is not unlawful delegation of legislative power under N.M. Const., art. III, § 1. Rutter & Wilbanks Corp. v. Oil Conservation Comm'n, 87 N.M. 286, 532 P.2d 582 (1975).

**The terms "spacing unit" and "proration unit" are not synonymous** and commission has power to fix spacing units without first creating proration units. Rutter & Wilbanks Corp. v. Oil Conservation Comm'n, 87 N.M. 286, 532 P.2d 582 (1975).

**Authority to pool separately owned tracts.** — Since commission has power to pool separately owned tracts within a spacing or proration unit, as well as concomitant authority to establish oversize nonstandard spacing units, the commission also has authority to pool separately owned tracts within an oversize nonstandard spacing unit. Rutter & Wilbanks Corp. v. Oil Conservation Comm'n, 87 N.M. 286, 532 P.2d 582 (1975).

**Creation of proration units, force pooling and participation formula upheld.** — Commission's (now division's) findings that it would be unreasonable and contrary to spirit of conservation statutes to drill an unnecessary and economically wasteful well were held sufficient to justify creation of two nonstandard gas proration units, and force pooling thereof, and were supported by substantial evidence. Likewise, participation formula adopted by commission, which gave each owner a share in production in same ratio as his acreage bore to the acreage of whole, was upheld despite limited proof as to extent and character of the pool. Rutter & Wilbanks Corp. v. Oil Conservation Comm'n, 87 N.M. 286, 532 P.2d 582 (1975).

**Proceedings to increase oil well spacing.** — A proceeding on an oil and gas estate lessee's application for an increase in oil well spacing was adjudicatory, and the lessor was entitled to actual notice under the due process requirements of the New Mexico and United States Constitutions. Uhden v. New Mexico Oil Conservation Comm'n, 112 N.M. 528, 817 P.2d 721 (1991).

**Law reviews.** — For comment on geothermal energy and water law, see 19 Nat. Resources J. 445 (1979).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 38 Am. Jur. 2d Gas and Oil §§ 159, 164, 172.

58 C.J.S. Mines and Minerals §§ 230, 240.

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