

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 232

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO OIL AND GAS; AMENDING SECTION 47-329, IDAHO CODE, TO REDESIGNATE
2 THE SECTION; AMENDING SECTION 47-318, IDAHO CODE, TO REDESIGNATE THE
3 SECTION AND TO ADD AND REVISE DEFINITIONS; AMENDING SECTION 47-315,
4 IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 47-328, IDAHO
5 CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT THE WASTE OF OIL
6 AND GAS IS PROHIBITED; AMENDING SECTION 47-327, IDAHO CODE, TO REDES-
7 IGNATE THE SECTION AND TO PROVIDE FOR JURISDICTION OVER CERTAIN LANDS;
8 AMENDING SECTION 47-317, IDAHO CODE, TO REDESIGNATE THE SECTION, TO
9 REVISE THE MEMBERSHIP, QUALIFICATIONS AND TERMS OF THE OIL AND GAS
10 CONSERVATION COMMISSION AND TO PROVIDE FOR ADDITIONAL LEGAL COUNSEL;
11 AMENDING SECTION 47-319, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO
12 REVISE THE DUTIES OF THE OIL AND GAS CONSERVATION COMMISSION AND THE
13 DEPARTMENT OF LANDS; REPEALING SECTION 47-316, IDAHO CODE, RELATING TO
14 THE WASTE OF OIL AND GAS; AMENDING SECTION 47-320, IDAHO CODE, TO RE-
15 DESIGNATE THE SECTION, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL
16 CORRECTIONS; AMENDING SECTION 47-321, IDAHO CODE, TO REDESIGNATE THE
17 SECTION AND TO PROVIDE FOR SPACING UNIT REQUIREMENTS; AMENDING CHAPTER
18 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-318, IDAHO
19 CODE, TO PROVIDE FOR WELL SPACING REQUIREMENTS; AMENDING CHAPTER 3,
20 TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-319, IDAHO
21 CODE, TO PROVIDE REQUIREMENTS FOR SETBACKS; AMENDING SECTION 47-322,
22 IDAHO CODE, TO REDESIGNATE THE SECTION, TO REMOVE LANGUAGE REGARDING
23 STEM PROGRAM DONATIONS, TO REVISE THE REQUIRED MAJORITY FOR INTEGRA-
24 TION, TO REMOVE LANGUAGE REGARDING TRADE SECRETS AND TO MAKE TECHNICAL
25 CORRECTIONS; AMENDING SECTION 47-323, IDAHO CODE, TO REDESIGNATE THE
26 SECTION, TO REVISE THE REQUIRED MAJORITY FOR UNIT OPERATION, TO REVISE
27 A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER
28 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-322, IDAHO
29 CODE, TO PROVIDE REQUIREMENTS FOR OIL AND GAS METERING SYSTEMS; AMEND-
30 ING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
31 47-323, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR COMMINGLING PRODUCTION
32 FROM OIL AND GAS WELLS; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE
33 ADDITION OF A NEW SECTION 47-324, IDAHO CODE, TO REQUIRE CERTAIN REPORTS
34 FROM OPERATORS AND TO PROVIDE FOR VIOLATIONS; AMENDING SECTION 47-326,
35 IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORREC-
36 TIONS; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW
37 SECTION 47-326, IDAHO CODE, TO PROVIDE THAT CERTAIN DATA IS PUBLIC AND
38 SHALL BE AVAILABLE ON THE INTERNET AND TO PROVIDE A PROCEDURE TO CLAIM
39 AN EXEMPTION; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE ADDITION
40 OF A NEW SECTION 47-327, IDAHO CODE, TO PROVIDE FOR CONFIDENTIALITY OF
41 CERTAIN INFORMATION, TO PROVIDE EXCEPTIONS AND TO PROVIDE PENALTIES
42 FOR VIOLATIONS; AMENDING SECTION 47-324, IDAHO CODE, TO REDESIGNATE
43 THE SECTION, TO PROVIDE FOR DUTIES OF THE OIL AND GAS ADMINISTRATOR,
44 TO PLACE A MORATORIUM ON RULEMAKING, TO REVISE CODE REFERENCES AND TO
45

1 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-325, IDAHO CODE, TO
 2 REDESIGNATE THE SECTION, TO PROVIDE FOR THE POWERS OF THE SECRETARY OF
 3 THE OIL AND GAS CONSERVATION COMMISSION, TO PROVIDE FOR THE VIOLATION OF
 4 COMMISSION ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
 5 47-330, IDAHO CODE, TO PROVIDE FOR THE DETERMINATION OF THE PRICE ON
 6 WHICH THE PAYMENT OF TAX AND ROYALTIES IS BASED, TO REMOVE LANGUAGE RE-
 7 GARDING RELATED PARTIES, TO PROVIDE FOR MONTHLY TAX PAYMENTS, TO REVISE
 8 THE DISTRIBUTION OF FUNDS COLLECTED BY THE TAX COMMISSION, TO AUTHORIZE
 9 THE SHARING OF RECORDS BETWEEN CERTAIN STATE AGENCIES, TO REQUIRE CON-
 10 FIDENTIALITY OF SUCH RECORDS AND TO PROVIDE A PENALTY FOR DISCLOSURE;
 11 AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
 12 TION 47-331, IDAHO CODE, TO PROVIDE FOR THE OBLIGATION TO PAY ROYALTIES
 13 AND TO PROVIDE FOR TERMS, REQUIREMENTS AND CIVIL REMEDIES; AMENDING
 14 CHAPTER 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-332,
 15 IDAHO CODE, TO REQUIRE CERTAIN REPORTS TO ROYALTY OWNERS AND TO PROVIDE
 16 FOR REPORTING VIOLATIONS; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY
 17 THE ADDITION OF A NEW SECTION 47-333, IDAHO CODE, TO AUTHORIZE A CIVIL
 18 ACTION BY A ROYALTY OWNER FOR AN ACCOUNTING AND ROYALTY PAYMENT; AMEND-
 19 ING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
 20 47-334, IDAHO CODE, TO PROVIDE FOR THE USE OF SURFACE LAND BY OWNERS AND
 21 OPERATORS AND TO PROVIDE FOR MEDIATION AND A BOND REQUIREMENT; AMENDING
 22 SECTION 74-108, IDAHO CODE, TO EXEMPT CERTAIN RECORDS FROM THE OIL AND
 23 GAS CONSERVATION COMMISSION AND THE DEPARTMENT OF LANDS FROM PUBLIC
 24 RECORDS DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
 25 TION 42-233, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION
 26 42-4003, IDAHO CODE, TO REVISE CODE REFERENCES; PROVIDING SEVERABIL-
 27 ITY; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

28 Be It Enacted by the Legislature of the State of Idaho:

29 SECTION 1. That Section 47-329, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 ~~47-329~~309. TITLE. This act may be cited as the Oil and Gas Conservation
 32 Act.

33 SECTION 2. That Section 47-318, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 ~~47-318~~310. DEFINITIONS. Unless the context otherwise requires, the
 36 terms defined in this section shall have the following meaning when used in
 37 this act~~+~~. The use of the plural includes the singular, and the use of the
 38 singular includes the plural.

39 (a~~1~~) "Commission" means the oil and gas conservation commission.

40 (b~~2~~) "Condensate" means the liquid produced by the condensation of a
 41 vapor or gas either after it leaves the reservoir or while still in the reser-
 42 voir.

43 (c~~3~~) "Correlative rights" means the opportunity of each owner in a
 44 pool to produce his just and equitable share of oil and gas in a pool without
 45 waste.

1 ~~(d4)~~ "Crops" means any growing vegetative matter used for an agricul-
2 tural purpose, including forage for grazing and domesticated animals.

3 ~~(5)~~ "Department" means the Idaho department of lands.

4 ~~(6)~~ "End purchaser" means a purchaser of oil that is ready for refining
5 or other use, or a purchaser of other fluid or gaseous hydrocarbons that have
6 been separated in a processing facility.

7 ~~(7)~~ "Exploration" means activities related to the various geological
8 and geophysical methods used to detect and determine the existence and ex-
9 tent of hydrocarbon deposits. The activities related to the search for oil
10 and gas include without limitation aerial, geological and geophysical sur-
11 veys and studies, seismic work, core drilling and the drilling of test wells.

12 ~~(e8)~~ "Field" means the general area underlaid by one (1) or more pools.

13 ~~(f9)~~ "Gas" means any petroleum hydrocarbon existing in the gaseous
14 phase, including condensate because it originally existed in the gaseous
15 phase.

16 ~~(10)~~ "Gathering facility" means a facility that receives gathering
17 lines from wells, commingles the produced materials and then sends those
18 materials to a processing facility. Some dehydration and gas or fluid sepa-
19 ration may also occur, but gas and liquid hydrocarbons are not refined enough
20 for sale to the end purchaser.

21 ~~(g11)~~ "Market value" means the price at the time of sale, in cash or on
22 terms reasonably equivalent to cash, for which the oil or gas should bring in
23 a competitive and open market under all conditions requisite to a fair sale,
24 the buyer and seller each acting prudently and knowledgeably, and assuming
25 the price is not affected by undue stimulus from either party. The costs of
26 marketing, transporting and processing oil and gas produced shall be borne
27 entirely by the producer, and such cost shall not reduce the ~~producer's~~
28 severance tax directly or indirectly.

29 ~~(h12)~~ "MCF" means one thousand cubic feet of gas.

30 ~~(13)~~ "Mineral interest" means the right to explore, drill or produce oil
31 or gas lying beneath the surface of property.

32 ~~(14)~~ "Natural gas plant liquids" or "NGL" means hydrocarbon compounds
33 in raw gas that are separated as liquids at gas processing plants, fraction-
34 ating plants and cycling plants. Natural gas plant liquids obtained include
35 ethane, liquefied petroleum gases (propane and the butanes), and pentanes
36 plus any heavier hydrocarbon compounds. Component products may be fraction-
37 ated or mixed.

38 ~~(15)~~ "Occupied structure" means a building with walls and a roof within
39 which individuals live or customarily work.

40 ~~(i16)~~ "Oil" ~~or~~ " means and includes crude oil" means petroleum oil and
41 other hydrocarbons, regardless of gravity, that are produced at the well
42 wellhead in liquid form by ordinary production methods and are not the result
43 of gas condensation before or after it leaves the reservoir and the liquid
44 hydrocarbons known as distillate or condensate recovered or extracted from
45 gas, other than gas produced in association with oil and commonly known as
46 casinghead gas.

47 ~~(j17)~~ "Oil and gas" means oil or gas or both. "Oil and gas" refers not
48 only to oil and gas in combination with each other but also generally to oil,
49 gas, casinghead gas, casinghead gasoline, gas-distillate or other hydrocar-
50 bons, or any combination or combinations thereof, which may be found in or

1 produced from a common source or supply of oil, oil and gas, or gas-distil-
2 late.

3 (18) "Oil and gas administrator" means the division administrator for
4 oil and gas conservation within the department of lands, as established un-
5 der section 58-104A, Idaho Code.

6 (19) "Oil and gas facility" means equipment or improvements used or in-
7 stalled at an oil and gas location for the exploration, production, with-
8 drawal, gathering, treatment or processing of oil or natural gas.

9 (20) "Oil and gas operations" means operations to explore for, develop
10 or produce oil or gas.

11 (21) "Operator" means any duly authorized person who is in charge of
12 the development of a lease, pool, or spacing or unitized area, or the opera-
13 tion of a producing well.

14 (22) "Owner" means the person who has the right to drill into and pro-
15 duce from a pool and to appropriate the oil or gas that he produces therefrom,
16 either for himself or for himself and others.

17 (23) "Person" means any natural person, corporation, association,
18 partnership, receiver, trustee, executor, administrator, guardian, fidu-
19 ciary or other representatives of any kind, and includes any government or
20 any political subdivision of any agency thereof. The masculine gender, in
21 referring to a person, includes the feminine and the neuter genders.

22 (24) "Pool" means an underground reservoir containing a common accumu-
23 lation of oil or gas or both. Each zone of a structure that is completely sep-
24 arated from any other zone in the same structure is a pool.

25 (25) "Processing facility" means a facility that refines gas and liquid
26 hydrocarbons so they can be sold to an end purchaser.

27 (26) "Producer" means the owner of a well or wells capable of producing
28 oil or gas or both.

29 (27) "Reservoir" means a subsurface volume of porous and permeable
30 rock in which oil or gas has ~~has~~ may have accumulated.

31 (28) "Royalty owner" means any owner of an interest in an oil or gas
32 lease that entitles him to share in the production of the oil or gas under the
33 lease.

34 (29) "Tight hole status" refers to a well for which the operator has ap-
35 plied and received confidential status from the commission pursuant to sec-
36 tion 47-327, Idaho Code. Information about a "tight hole" well is confiden-
37 tial as to the public, but not with regard to the commission or other state
38 authority.

39 (30) "Tract" means an expanse of land representing the surface expres-
40 sion of the underlying mineral estate that includes oil or gas rights. A
41 tract:

42 (a) May be identified by its public land survey system of rectangular
43 surveys that subdivides and describes land in the United States in the
44 public domain and is regulated by the United States department of the
45 interior, bureau of land management;

46 (b) Is of no particular size;

47 (c) May be irregular in form;

48 (d) Is contiguous;

49 (e) May lie in more than one (1) township or one (1) section;

1 (f) May have a boundary defined entirely or in part by natural monu-
 2 ments such as streams, divides or straight lines connecting prominent
 3 features of topography; and

4 (g) May be combined with other tracts to form a lease.

5 ~~(§31)~~ "Uncommitted owner" means one who is not leased or otherwise con-
 6 tractually obligated to the operator.

7 ~~(§32)~~ "Waste" as applied to gas shall include the escape, blowing or re-
 8 leasing, directly or indirectly, into the open air of gas from wells produc-
 9 tive of gas only, or gas in an excessive or unreasonable amount from wells
 10 producing oil or both oil and gas; and the production of gas in quantities or
 11 in such manner as will unreasonably reduce reservoir pressure or unreason-
 12 ably diminish the quantity of oil or gas that might ultimately be produced;
 13 excepting gas that is reasonably necessary in the drilling, completing and
 14 testing of wells and in furnishing power for the production of wells.

15 ~~(§33)~~ "Waste" as applied to oil means and includes underground waste;
 16 inefficient, excessive or improper use or dissipation of reservoir en-
 17 ergy, including gas energy and water drive; surface waste, open-pit storage
 18 and waste incident to the production of oil in excess of the producer's
 19 above-ground storage facilities and lease and contractual requirements,
 20 but excluding storage (other than open-pit storage) reasonably necessary
 21 for building up and maintaining crude stocks and products thereof for con-
 22 sumption, use and sale; the locating, drilling, equipping, operating or
 23 producing of any well in a manner that causes, or tends to cause, reduction of
 24 the quantity of oil or gas ultimately recoverable from a pool under prudent
 25 and proper operations.

26 ~~(§34) The use of the plural includes the singular, and the use of the~~
 27 ~~singular includes the plural~~ "Workover" means an operation in which a well is
 28 reentered for the purpose of maintaining or repairing it.

29 SECTION 3. That Section 47-315, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 ~~47-315311.~~ PUBLIC INTEREST. It is declared to be in the public inter-
 32 est to foster, encourage and promote the development, production and uti-
 33 lization of natural resources of oil and gas in the state of Idaho in such
 34 a manner as will prevent waste; to provide for uniformity and consistency
 35 in the regulation of the production of oil and gas throughout the state of
 36 Idaho; to authorize and to provide for the operations and development of oil
 37 and gas properties in such a manner that a greater ultimate recovery of oil
 38 and gas may be obtained and that the correlative rights of all owners be fully
 39 protected; to encourage, authorize and provide for voluntary agreements for
 40 cycling, recycling, pressure maintenance and secondary recovery operations
 41 in order that the greatest possible economic recovery of oil and gas may be
 42 obtained within the state to the end that the land owners, the royalty own-
 43 ers, the producers and the general public may realize and enjoy the greatest
 44 possible good from these vital natural resources.

45 SECTION 4. That Section 47-328, Idaho Code, be, and the same is hereby
 46 amended to read as follows:

1 47-~~328~~312. ACT NOT CONSTRUED TO RESTRICT PRODUCTION -- WASTE PROHIB-
 2 ITED. It is not the intent or purpose of this law to require the proration or
 3 distribution or the production of oil and gas among the fields of Idaho on the
 4 basis of market demand. This act shall never be construed to require, per-
 5 mit, or authorize the commission or any court to make, enter, or enforce any
 6 order, rule, regulation or judgment requiring restriction of production due
 7 to market demand of any pool or of any well (except as provided in section
 8 47-~~319~~315, Idaho Code, hereof) to an amount less than the well or pool can
 9 produce without waste in accordance with sound engineering practices. The
 10 waste of oil and gas or either of them as defined in this chapter is hereby
 11 prohibited.

12 SECTION 5. That Section 47-327, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 47-~~327~~313. LANDS SUBJECT TO THIS ACT. This act shall apply to all lands
 15 located in the state of Idaho lawfully subject to its police power, and shall
 16 apply to, however owned, including any lands owned or administered by any
 17 government or any agency or political subdivision thereof, including lands
 18 of the United States, or ~~to~~ lands subject to the jurisdiction of the United
 19 States over which the state of Idaho has police power, except to the degree
 20 that it is inharmonious with the uses, activities or regulations of the
 21 United States, and furthermore, the same shall apply to any lands committed
 22 to a unit agreement approved by the secretary of the interior or his duly
 23 authorized representative, except that the commission may, with respect to
 24 such unit agreement, suspend the application of this act or any part of this
 25 act so long as the conservation of oil and gas and the prevention of waste as
 26 in this act provided is accomplished under such unit agreements, but such
 27 suspension shall not relieve any operator from making such reports as may be
 28 required by the commission with respect to operations under any such unit
 29 agreement.

30 SECTION 6. That Section 47-317, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 47-~~317~~314. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS --
 33 LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created
 34 an oil and gas conservation commission of the state of Idaho within the de-
 35 partment of lands. The commission shall consist of ~~five~~ (5) the governor,
 36 the director of the department of lands, a county commissioner as described
 37 in this section, and two (2) members appointed by the governor with the ad-
 38 vice and consent of the senate.

39 (a) The county commissioner shall be from a county where oil and gas
 40 is being produced or has been produced within the last ten (10) years
 41 and shall be elected by a majority of the county commissioners from such
 42 producing counties. The county commissioner shall serve a four (4) year
 43 term. A vacancy shall be filled by election for the unexpired term in
 44 the same manner provided for election to a full term.

45 (b) The members appointed by the governor shall serve at the pleasure of
 46 the governor. ~~One (1) member, and shall be knowledgeable in oil and gas~~
 47 matters, ~~one (1) member shall be knowledgeable in geological matters,~~

1 ~~one (1) member shall be knowledgeable in water matters, one (1) member~~
 2 ~~shall be a private landowner who owns mineral rights with the surface in~~
 3 ~~a county with oil and gas activity and one (1) member shall be a private~~
 4 ~~landowner who does not own mineral rights. (2) have a college degree in~~
 5 ~~petroleum geology or petroleum engineering and ten (10) years of expe-~~
 6 ~~rience in the field. The governor shall appoint the two (2) technical~~
 7 ~~expert members: one (1) member for a term of four (4) years and one (1)~~
 8 ~~member for a term of three (3) years. Thereafter, tThe term of office~~
 9 ~~of each appointed member of the commission shall be four (4) years, ex-~~
 10 ~~cept that upon July 1, 2013, the governor shall appoint one (1) member~~
 11 ~~for a term of one (1) year, one (1) member for a term of two (2) years, one~~
 12 ~~(1) member for a term of three (3) years and two (2) members for terms of~~
 13 ~~four (4) years. After the initial appointment, the governor shall ap-~~
 14 ~~point members to serve in office for a term of four (4) years commencing~~
 15 ~~on July 1. A vacancy shall be filled by appointment for the unexpired~~
 16 ~~term in the same manner provided for an appointment to the full term.~~

17 (2) On July 1, 2017, the terms of the existing members of the commission
 18 appointed under this section shall terminate, with the sole exception that
 19 such commission shall decide any administrative actions filed prior to July
 20 1, 2017. Actions filed on and after July 1, 2017, shall be decided by the new
 21 commission established under this section.

22 (3) The governor shall serve as the chair of the commission. The com-
 23 mission shall annually elect a chairman and a vice chairman from their mem-
 24 bership. Such officers The vice chairman shall hold their respective of-
 25 fices office until their successors are a successor is elected. If a vacancy
 26 occurs in either the office, the commission shall elect a member to fill such
 27 office for the remainder of the term.

28 (4) The commission shall meet at least annually and thereafter on dates
 29 set by the commission. A majority of the voting members shall constitute a
 30 quorum.

31 (5) The members of the commission appointed by the governor or selected
 32 by the county commissioners shall be compensated as provided in section
 33 59-509(n), Idaho Code.

34 ~~(6) Unless the commission appoints another person to be the secretary~~
 35 ~~of the commission, the director~~ The oil and gas administrator of the depart-
 36 ~~ment of lands shall be the secretary of~~ for the commission.

37 (7) The department of lands shall have the power to exercise, under the
 38 general control and supervision of the commission, all of the rights, powers
 39 and duties vested by law in the commission, except those provided in sections
 40 47-324328 and 47-325329 (e3), Idaho Code.

41 (8) The commission shall have and is hereby given jurisdiction and au-
 42 thority over all persons and property, public and private, necessary to en-
 43 force the provisions of this act, and shall have power and authority to make
 44 and enforce rules, regulations and orders, and do whatever may reasonably be
 45 necessary to carry out the provisions of this act. Any delegation of author-
 46 ity to any other state officer, board or commission to administer any and all
 47 other laws of this state relating to the conservation of oil and gas is hereby
 48 rescinded and withdrawn and such authority is hereby unqualifiedly con-
 49 ferred upon the commission, as herein provided. The commission shall follow

1 procedures on applications as provided in section 47-~~324328~~, Idaho Code, ex-
2 cept as provided in sections 47-~~320316~~(1) (a) and 47-~~325329~~(e3), Idaho Code.

3 (9) It is the intent of the legislature to occupy the field of the regu-
4 lation of oil and gas exploration and production with the limited exception
5 of the exercise of planning and zoning authority granted cities and counties
6 pursuant to chapter 65, title 67, Idaho Code.

7 (10) To implement the purpose of the oil and gas conservation act, and
8 to advance the public interest in the orderly development of the state's oil
9 and gas resources, while at the same time recognizing the responsibility of
10 local governments to protect the public health, safety and welfare, it is
11 herein provided that:

12 (a) The commission will ~~notice~~ notify the respective city or county
13 with jurisdiction upon receipt of an application and will remit, elec-
14 tronically, a copy of all application materials.

15 (b) No ordinance, resolution, requirement or standard of a city, county
16 or political subdivision, except a state agency with authority, shall
17 actually or operationally prohibit the extraction of oil and gas; pro-
18 vided however, that extraction may be subject to reasonable local or-
19 dinance provisions, not repugnant to law, which protect public health,
20 public safety, public order or which prevent harm to public infrastruc-
21 ture or degradation of the value, use and enjoyment of private property.
22 Any ordinance regulating extraction enacted pursuant to chapter 65,
23 title 67, Idaho Code, shall provide for administrative permitting un-
24 der conditions established by ordinance, not to exceed twenty-one (21)
25 days, unless extended by agreement of the parties or upon good cause
26 shown.

27 (c) No ordinance, resolution, requirement or standard of a city, county
28 or political subdivision, except a state agency with authority, shall
29 actually or operationally prohibit construction or operation of facil-
30 ities and infrastructure needed for the post-extraction processing and
31 transport of gas and oil. However, such facilities and infrastructure
32 shall be subject to local ordinances, regulations and permitting re-
33 quirements, not repugnant to law, as provided in chapter 65, title 67,
34 Idaho Code.

35 (11) The commission may sue and be sued in its administration of this
36 act in any state or federal district court in the state of Idaho having juris-
37 diction of the parties or of the subject matter.

38 (12) The attorney general shall act as the legal advisor of the commis-
39 sion and represent the commission in all court proceedings and in all pro-
40 ceedings before it, and in any proceeding to which the commission may be a
41 party before any department of the federal government. The commission may
42 retain additional counsel to assist the attorney general and, for such pur-
43 pose, may employ any funds available under this act.

44 SECTION 7. That Section 47-319, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 ~~47-319315. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (1) This~~
47 ~~act shall apply to all lands located in the state, however owned, including~~
48 ~~any lands owned or administered by any government or any agency or political~~
49 ~~subdivision thereof, over which the state under its police power, has juris-~~

~~diction.~~ The commission and the department shall protect correlative rights by administering the provisions of this chapter in such a manner as to avoid the drilling of unnecessary wells or incurring unnecessary expense, and in a manner that allows all operators, surface owners and royalty owners a fair and just opportunity for production and the right to recover, receive and enjoy the benefits of oil and gas or equivalent resources.

(2) The commission is authorized and it is its duty to regulate the exploration for and production of oil and gas, prevent waste of oil and gas and to protect correlative rights, and otherwise to administer and enforce this act. It has jurisdiction over all persons and property necessary for such purposes. In the event of a conflict, the duty to prevent waste is paramount.

(3) The commission is authorized to make such investigations as it deems proper to determine whether action by the commission in discharging its duties is necessary.

(4) The commission is authorized to appoint, as necessary, committees for the purpose of advising the commission on matters relating to oil and gas.

(5) Without limiting its general authority, the commission shall have the specific authority to require:

(a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;

(b) The taking and preservation of samples ~~and the making and filing with the commission of true and correct copies of well logs and directional surveys both in form and content as prescribed by the commission; provided however, that logs of exploratory or wildcat wells marked confidential shall be subject to disclosure according to chapter 1, title 74, Idaho Code, and shall be kept confidential by the commission for a period of one (1) year from the date of filing the log with the commission. And provided that the commission may use any well logs and directional surveys in any action to enforce the provisions of this chapter or any order or rule adopted hereunder. And provided further, that after four (4) months from the effective date of this act, the commission may require the owner of a well theretofore drilled for oil or gas to file within four (4) months of such order a true and correct copy of the log or logs of such well and findings, if taken;~~

(c) The drilling, casing, operation and plugging of wells in such manner as to prevent: (i) the escape of oil or gas out of one (1) pool into another; (ii) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations; (iii) the pollution of fresh water supplies by oil, gas, or saltwater; (iv) blow-outs, cavings, seepages, and fires; and (v) waste as ~~hereinabove~~ defined in section 47-310, Idaho Code;

(d) The taking of tests of oil or gas wells;

(e) The furnishing of a reasonable performance bond with good and sufficient surety, conditioned upon the performance of the duty to comply with the requirements of this law and the regulations of the commission with respect to the drilling, maintaining, operating and plugging of each well drilled for oil or gas;

1 (f) That the production from wells be separated into gaseous and liquid
2 hydrocarbons, and that each be measured by means and upon standards that
3 may be prescribed by the commission;

4 (g) That wells not be operated with inefficient gas-oil or water-oil
5 ratios, and to fix these ratios, and to limit production from wells with
6 inefficient gas-oil or water-oil ratios;

7 (h) Metering or other measuring of oil, gas, or product; and

8 (i) ~~That every person who produces oil and gas in the state keep and~~
9 ~~maintain for a period of five (5) years complete and accurate records~~
10 ~~of the quantities thereof, which records, or certified copies thereof,~~
11 ~~shall be available for examination by the commission or its agents at~~
12 ~~all reasonable times within said period, and that every such person file~~
13 ~~with the commission such reasonable reports as it may prescribe with re-~~
14 ~~spect to such oil or gas production. Provided however, that reports of~~
15 ~~oil and gas production shall be kept confidential by the commission and~~
16 ~~shall be exempt from disclosure pursuant to section 74-107, Idaho Code,~~
17 ~~for a period of six (6) months from the date of filing the initial pro-~~
18 ~~duction report for a well with the commission, and thereafter all pro-~~
19 ~~duction reports for a well shall be subject to disclosure pursuant to~~
20 ~~chapter 1, title 74, Idaho Code; and~~

21 ~~(j) The filing of reports of or plats with the commission that it may~~
22 ~~prescribe.~~

23 (6) Without limiting its general authority, and without limiting the
24 authority of other state agencies or local government as provided by law, the
25 commission shall have the specific authority to regulate:

26 (a) The drilling and plugging of wells and the compression or dehydra-
27 tion of produced oil and gas, and all other operations for the produc-
28 tion of oil and gas;

29 (b) The shooting and treatment of wells;

30 (c) The spacing or locating of wells;

31 (d) Operations to increase ultimate recovery, such as cycling of gas,
32 the maintenance of pressure, and the introduction of gas, water, or
33 other substances into a producing formation; and

34 (e) The disposal of ~~saltwater~~ produced water and oil field wastes.

35 (7) The commission is authorized to classify and reclassify pools as
36 oil, gas, or condensate pools, or wells as oil, gas, or condensate wells.

37 (8) The commission is authorized to make and enforce rules, regula-
38 tions, and orders reasonably necessary to prevent waste, protect correla-
39 tive rights, to govern the practice and procedure before the commission, and
40 otherwise to administer this act.

41 (9) ~~The commission is authorized to share such records or information~~
42 ~~with the Idaho geological survey. When any such record or information is ex-~~
43 ~~empt from disclosure under the Idaho public records act, section 74-101, et~~
44 ~~seq., Idaho Code, the sharing of such record or information between the oil~~
45 ~~and gas conservation commission, the Idaho department of lands, the Idaho~~
46 ~~geological survey shall not render the shared information subject to disclo-~~
47 ~~sure to other persons under the Idaho public records act, section 74-101, et~~
48 ~~seq., Idaho Code. Notwithstanding the foregoing, nothing in this section~~
49 ~~shall be construed to limit the sharing of such records or information by~~

1 ~~the oil and gas commission and the Idaho department of lands with other state~~
2 ~~agencies, when authorized by law~~

3 (a) The commission shall require the department to perform the follow-
4 ing activities on an annual basis:

5 (i) Inspect and report on all active well sites and equipment; and

6 (ii) Visit and file a report on production and processing facili-
7 ties.

8 (b) The following information shall be gathered by a staff member of the
9 department and reported to the commission on a generic quarterly report
10 form approved by the commission:

11 (i) Report sale volumes leaving processing facilities;

12 (ii) Report sale gas volumes at all localities;

13 (iii) Report sale of oil condensate and NGL volumes;

14 (iv) Submit an opinion as to the meeting of industry standards;

15 (v) Review operations report; and

16 (vi) Submit an opinion as to any areas of concern, as identified on
17 inspection reports.

18 SECTION 8. That Section [47-316](#), Idaho Code, be, and the same is hereby
19 repealed.

20 SECTION 9. That Section 47-320, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 ~~47-320~~316. PERMIT TO DRILL OR TREAT A WELL -- FEES. (1) It shall be un-
23 lawful to commence operations for the drilling or treating of a well for oil
24 or gas without first giving notice to the commission of intention to drill
25 or treat and without first obtaining a permit from the commission under such
26 rules and regulations as may be reasonably prescribed by the commission and
27 by paying to the commission a filing and service fee as provided by this sec-
28 tion.

29 (a) Any request for a permit or authorization as set forth in subsection
30 (3) (a), (b), (c), (d), (e), (f), (g), (m), (n) or (o) of this section
31 shall be made by application to the department of lands, and processed
32 as provided in this section.

33 (b) The department shall notify the applicant within five (5) business
34 days of receipt of an application if the application is administra-
35 tively incomplete, and in such notice shall identify missing items to be
36 supplied in order to make the application complete.

37 (c) The department shall notify the director of the department of wa-
38 ter resources regarding permits to drill or treat a well. The director
39 of water resources shall have ten (10) business days from the date of
40 receipt of such notification from the department of lands to recommend
41 conditions he believes necessary to protect fresh water supplies.

42 (d) Applications submitted under this section shall be posted on the
43 department of lands's website for ten (10) calendar days for a written
44 comment period.

45 (e) The department of lands shall approve or deny the application to
46 drill or treat a well within fifteen (15) business days of receipt of a
47 complete application.

1 (f) The department's decision made under this section may be appealed
2 to the commission by the applicant pursuant to the procedure in section
3 47-324(d), (e), (f) and (g) 328(4) through (7), Idaho Code.

4 (2) Upon issuance of any permit, a copy thereof, including any limi-
5 tations, conditions, controls, rules or regulations attached thereto for
6 the protection of fresh water supplies as required in section 47-319315,
7 Idaho Code, shall be forwarded to the director of the department of water
8 resources.

9 (3) The department shall collect the following fees, which shall be
10 remitted to the state treasurer for deposit in the oil and gas conservation
11 fund and shall be used exclusively to pay the costs and expenses incurred in
12 connection with the administration and enforcement of this chapter:

- 13 (a) Application for a permit to drill a well\$2,000
- 14 (b) Application to deepen a well 500
- 15 (c) Application to plug and abandon a well, if not completed within one
- 16 (1) year from issuance of permit to drill a well 500
- 17 (d) Application to treat a well, if separate from an application for a
- 18 permit to drill a well1,000
- 19 (e) Application to construct a pit, if separate from an application for
- 20 a permit to drill a well1,500
- 21 (f) Application to directionally drill a well, if separate from an ap-
- 22 plication for a permit to drill a well1,000
- 23 (g) Application for a multiple zone completion, if separate from an ap-
- 24 plication for a permit to drill a well1,000
- 25 (h) Application for an exceptional well location, if separate from an
- 26 application for a permit to drill a well1,300
- 27 (i) Application to change the size or shape of a spacing unit1,300
- 28 (j) Application to establish or amend a field-wide spacing order .1,300
- 29 (k) Application for an integration order1,300
- 30 (l) Application for a unitization order1,300
- 31 (m) Application for a seismic operations permit covering less than
- 32 twelve (12) miles of a 2-D survey800
- 33 (n) Application for a seismic operations permit covering between
- 34 twelve (12) miles and twenty-four (24) miles of a 2-D survey, or up to
- 35 seventy-two (72) square miles of a 3-D survey2,000
- 36 (o) Application for a seismic operations permit covering more than
- 37 twenty-four (24) miles of a 2-D survey, or more than seventy-two (72)
- 38 square miles of a 3-D survey2,500

39 SECTION 10. That Section 47-321, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 47-321317. SPACING UNITS. (1) The department shall promptly establish
42 spacing units for each pool except in those pools that have been developed to
43 such an extent that it would be impracticable or unreasonable to establish
44 spacing units at the existing stage of development.

45 (2) An order establishing spacing units shall specify the size and
46 shape of the units, which shall be such as will, in the opinion of the de-
47 partment, result in the efficient and economical development of the pool as
48 a whole. Any unit established by the department shall be geographic. The
49 geographic boundaries of the unit shall be described in accordance with the

1 public land survey system. Except where circumstances, geologic or other-
2 wise, affecting the orderly development of a pool reasonably require, or as
3 provided in paragraph (b) of this subsection, the size of the spacing units
4 shall not be smaller than the maximum area that can be efficiently and eco-
5 nomically drained by one (1) well; provided:

6 (a) The default size of statewide spacing units shall be forty (40)
7 acres for oil wells and one hundred sixty (160) acres for gas wells.

8 (b) If, at the time of a hearing to establish spacing units, there is
9 not sufficient evidence from which to determine the area that can be ef-
10 ficiently and economically drained by one (1) well, the department may
11 make an order establishing alternative temporary spacing units for the
12 orderly development of the pool, pending the obtaining of the informa-
13 tion required to determine what the ultimate permanent spacing should
14 be. A temporary spacing unit shall remain in effect until superseded by
15 an order or until a permanent spacing unit is established.

16 (b) Where the federal agency administering federal minerals that
17 would otherwise be included in a spacing unit has not leased or has
18 failed to offer such federal minerals for lease in accordance with 30
19 U.S.C. section 226 and 43 CFR 3120.1-2(a), such federal minerals may be
20 excluded from the unit upon application or upon the department's own
21 determination.

22 (3) ~~Except where circumstances, geologic or otherwise, affecting the~~
23 ~~orderly development of a pool reasonably require, spacing units shall be of~~
24 ~~approximately uniform size and shape for the entire pool~~ Permanent spacing
25 units do not need to be uniform in size or shape but must result in the ef-
26 ficient and economic development of the pool as a whole. The department may
27 ~~establish spacing units of different sizes or shapes for different parts of a~~
28 ~~pool or may grant exceptions to the size or shape of any spacing unit or units~~
29 or may change the sizes or shape of one (1) or more existing spacing units.

30 (4) An order establishing spacing units shall direct that no more
31 than one (1) well shall be drilled to and produced from the common source
32 of supply on any unit, and shall specify the location for the drilling of a
33 well thereon, in accordance with a reasonably uniform spacing pattern, with
34 necessary exceptions for wells drilled or drilling at the time of the fil-
35 ing of the application. If the department finds that a well drilled at the
36 prescribed location would not be likely to produce in paying quantities, or
37 that surface conditions would substantially add to the burden or hazard of
38 drilling such well, or for other good cause shown, the department is autho-
39 rized to make an order permitting the well to be drilled at a location other
40 than that prescribed by such spacing order. Application for an exception
41 shall be filed with the department and may be granted where it is shown that
42 good cause for such exception exists and that consent to such exception has
43 been given by the operators of all drilling units directly or diagonally off-
44 setting the drilling unit for which an exception is requested, and, as to the
45 lands upon which drilling units have not been established, by the majority of
46 mineral interest owners of those lands which would be included in directly
47 or diagonally offsetting drilling units under said order, if said order were
48 extended to include such additional lands.

49 (5) An order establishing spacing units for a pool shall cover all lands
50 determined or believed to be underlaid by such pool, and may be modified by

1 the department from time to time to include additional lands determined to
2 be underlaid by such pool or to exclude lands determined not to be underlaid
3 by such pool. A pool may be divided into zones and a spacing unit for each
4 zone may be established if necessary to prevent or assist in preventing waste
5 of oil or gas, to avoid drilling unnecessary wells, to protect correlative
6 rights or to facilitate production through the use of innovative drilling
7 and completion methods. The spacing units within the zone may differ in size
8 and shape from spacing units in any other zone but may not be smaller than
9 the maximum area that can be efficiently and economically drained by one (1)
10 well.

11 (6) An order establishing spacing units may be modified by the depart-
12 ment to change the size or shape of one (1) or more spacing units, or to permit
13 the drilling of additional wells on a reasonably uniform pattern. An opera-
14 tor may apply for changes to the size of spacing units. The department will
15 review applications to change the size or shape of spacing units.

16 (7) Upon the filing of an application to ~~establish~~ change spacing
17 units, no additional well shall be commenced for production from the pool
18 until the order establishing spacing units has been made, unless the com-
19 mencement of the well is authorized by order of the department.

20 SECTION 11. That Chapter 3, Title 47, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 47-318, Idaho Code, and to read as follows:

23 47-318. WELL SPACING. (1) In the absence of an order by the department
24 setting spacing units for a pool or a unit operation, the following default
25 spacing provisions shall apply:

26 (a) Every well drilled for oil must be located in the center of a forty
27 (40) acre governmental quarter, quarter section, lot or tract, or com-
28 bination of lots or tracts substantially equivalent thereto as shown
29 by the most recent governmental survey, with a tolerance of two hundred
30 (200) feet in any direction from the center location; provided that
31 no oil well shall be drilled less than nine hundred twenty (920) feet
32 from any other well drilling to or capable of producing oil from the
33 same pool, or no oil well shall be completed in a known pool unless it
34 is located more than nine hundred twenty (920) feet from any other well
35 completed in and capable of producing oil from the same pool. Request
36 may be made for units larger or smaller than forty (40) acres. The oil
37 and gas administrator shall provide notice and hold a hearing for any
38 spacing unit request for units larger or smaller than forty (40) acres.

39 (b) Every well drilled for gas must be located on a drilling unit con-
40 sisting of approximately one hundred sixty (160) contiguous surface
41 acres, or lot(s) equivalent thereto, upon which there is no other well
42 completed in or drilling to the same pool. A gas well must have a minimum
43 setback of three hundred thirty (330) feet from the quarter, quarter
44 section line defining the one hundred sixty (160) acre unit. The spac-
45 ing unit shall be located and defined using the PLS quarter, quarter
46 section lines, made up of quarter, quarter sections in any continuous
47 arrangement necessary to effectively cover the anticipated pool. The
48 spacing unit shall be placed in the best practical position over the
49 pool to maximize the recovery and avoid stranded resources and parcels.

1 Units shall be contiguous and based on the operator's best judgments
2 utilizing surface and geological assessments. Request may be made for
3 units larger or smaller than one hundred sixty (160) acres. The oil
4 and gas administrator shall provide notice and hold a hearing for any
5 spacing unit request for units larger or smaller than one hundred sixty
6 (160) acres.

7 (c) "Well location" for the purposes of this section shall mean the
8 point whereby the zone of interest is pierced by the well. If casing
9 perforations in the producing interval extend for more than ten (10)
10 feet along the length of the casing, then the ~~mid-point~~ midpoint of the
11 producing casing perforations is the well location.

12 (2) After six (6) months but before the end of twelve (12) months of
13 production in a temporary spacing unit, an operator shall provide the oil
14 and gas administrator with all pertinent information and a permanent spacing
15 unit shall be designated. Proceeds from production may be placed in an in-
16 terest-bearing escrow account by the operator until a permanent spacing unit
17 has been designated.

18 (3) The oil and gas administrator shall have the discretion to deter-
19 mine the pattern location of wells adjacent to an area spaced by the depart-
20 ment, or under application for spacing where there is sufficient evidence
21 to indicate that the pool or reservoir spaced or about to be spaced may ex-
22 tend beyond the boundary of the spacing order or application, and the unifor-
23 mity of spacing patterns is necessary to ensure orderly development of the
24 resource.

25 (4) The department will review applications to change the default size
26 of spacing units. The default size of statewide spacing units shall be
27 forty (40) acres for oil wells and one hundred sixty (160) contiguous acres
28 utilizing quarter, quarter section lines in any pattern that in the opera-
29 tor's best discretion covers the pool effectively. An operator may apply
30 for changes to the size of spacing units. Changes to spacing units may be
31 authorized if the change would assist in preventing the waste of oil or gas,
32 avoid the drilling of unnecessary wells, or protect correlative rights. The
33 spacing and well shall be located and defined using the public land survey
34 quarter, quarter section lines, made up of quarter, quarter sections in any
35 contiguous arrangement necessary to effectively cover the anticipated pool.
36 No well spacing shall be confined to be within the township or main section
37 boundary. Any public land survey ~~boundary~~ boundaries shall be used only as
38 descriptive boundaries to the spacing unit or well spacing. An application
39 to change the size or shape of a spacing unit must include an affidavit that
40 the applicant has notified the applicant's lessors and uncommitted owners in
41 the proposed unit, and the lessees, uncommitted owners and the applicant's
42 lessors in offset units. This notice must include a copy of the application,
43 ~~and~~ instructions for responding to the application, and instructions for
44 participating in the hearing. Spacing units must result in the efficient
45 and economic development of the pool as a whole. In establishing spacing
46 units, the oil and gas administrator will review the unit's acreage and shape
47 based ~~upon~~ on evidence introduced at the hearing. The department may divide
48 a pool into zones and establish spacing units for each zone if review by the
49 oil and gas administrator's and the operator's engineering and geological
50 teams determine it necessary. The spacing units within the zone may differ

1 in size and shape from spacing units in any other zone but may not be smaller
2 than the maximum area that can be efficiently and economically drained by one
3 (1) well.

4 (5) After logging and testing new wells, the operator at its discretion
5 may apply to the oil and gas administrator to review the data and adjust the
6 spacing prior to producing the well and paying royalties.

7 SECTION 12. That Chapter 3, Title 47, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 47-319, Idaho Code, and to read as follows:

10 47-319. SETBACKS. Oil and gas wells, tank batteries and gas processing
11 facilities shall not be constructed within three hundred (300) feet of an ex-
12 isting occupied structure, domestic water well, canal, ditch or the natural
13 or ordinary high-water mark of surface waters or within fifty (50) feet of a
14 highway. However, oil and gas wells, tank batteries and gas processing fa-
15 cilities may be constructed closer than three hundred (300) feet from an ex-
16 isting occupied structure, domestic water well, canal or ditch with the ex-
17 press written permission from the owner of the occupied structure, domestic
18 water well, canal or ditch. Oil and gas wells, tank batteries and gas pro-
19 cessing facilities shall in no event be constructed within one hundred (100)
20 feet of an existing occupied structure, domestic water well, canal or ditch.

21 SECTION 13. That Section 47-322, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 47-~~322~~320. INTEGRATION OF TRACTS -- ORDERS OF DEPARTMENT. (a~~1~~) When
24 two (2) or more separately owned tracts are embraced within a spacing unit,
25 or when there are separately owned interests in all or a part of a spacing
26 unit, the interested persons may integrate their tracts or interests for the
27 development and operation of the spacing unit. In the absence of voluntary
28 integration, the department, upon the application of any owner in that pro-
29 posed spacing unit, shall order integration of all tracts or interests in
30 the spacing unit for drilling of a well or wells, development and operation
31 thereof and for the sharing of production therefrom. The department, as a
32 part of the order establishing a spacing unit or units, may prescribe the
33 terms and conditions upon which the royalty interests in the unit or units
34 shall, in the absence of voluntary agreement, be deemed to be integrated
35 without the necessity of a subsequent separate order integrating the royalty
36 interests. Each such integration order shall be upon terms and conditions
37 that are just and reasonable.

38 (b~~2~~) All operations, including, but not limited to, the commencement,
39 drilling, or operation of a well upon any portion of a spacing unit for which
40 an integration order has been entered, shall be deemed for all purposes the
41 conduct of such operations upon each separately owned tract in the spacing
42 unit by the several owners thereof. That portion of the production allocated
43 to a separately owned tract included in a spacing unit shall, when produced,
44 be deemed, for all purposes, to have been actually produced from such tract
45 by a well drilled thereon.

46 (e~~3~~) Each such integration order shall authorize the drilling, equip-
47 ping, and operation, or operation, of a well on the spacing unit; shall

1 designate an operator for the integrated unit; shall prescribe the time and
2 manner in which all the owners in the spacing unit may elect to participate
3 therein; and shall make provision for the payment by all those who elect to
4 participate therein, of the reasonable actual cost thereof, plus a reason-
5 able charge for supervision and interest. Each such integration order shall
6 provide for the five (5) following options:

7 (ia) Working interest owner. An owner who elects to participate as
8 a working interest owner shall pay the proportionate share of the ac-
9 tual costs of drilling and operating a well allocated to the owner's in-
10 terest in the spacing unit. Working interest owners who share in the
11 costs of drilling and operating the well are entitled to their respec-
12 tive shares of the production of the well. The operator of the inte-
13 grated spacing unit and working interest owners shall enter into a joint
14 operating agreement approved by the department in the integration or-
15 der.

16 (ib) Nonconsenting working interest owner. An owner who refuses
17 to share in the risk and actual costs of drilling and operating the
18 well, but desires to participate as a working interest owner, is a non-
19 consenting working interest owner. Nonconsenting working interest
20 owners are entitled to their respective shares of the production of the
21 well, not to exceed one-eighth (1/8) royalty, until the operator of
22 the integrated spacing unit has recovered up to three hundred percent
23 (300%) of the nonconsenting working interest owner's share of the cost
24 of drilling and operating the well under the terms set forth in the
25 integration order. After all the costs have been recovered by the con-
26 senting owners in the spacing unit, the nonconsenting owner is entitled
27 to his respective shares of the production of the well, and shall be
28 liable for his pro rata share of costs as if the nonconsenting owner had
29 originally agreed to pay the costs of drilling and operating the well.
30 The operator of the integrated spacing unit and nonconsenting working
31 interest owners shall enter into a joint operating agreement approved
32 by the department in the integration order.

33 (ic) Leased. An owner may enter into a lease with the operator of the
34 integrated spacing unit under the terms and conditions in the integra-
35 tion order. The owner shall receive one-eighth (1/8) royalty. The op-
36 erator of an integrated spacing unit shall pay a leasing owner the same
37 bonus payment per acre as the operator originally paid to other owners
38 in the spacing unit prior to the issuance of the integration order.

39 (id) Objector. If an owner objects to any participation or involve-
40 ment of any kind in the unit, such owner may elect to be an objector.
41 An objecting owner's interest will be deemed leased under the terms
42 and conditions in the integration order. The owner shall receive
43 one-eighth (1/8) royalty. ~~Provided however, an objecting owner may~~
44 ~~elect to have any funds to which he would otherwise be entitled trans-~~
45 ~~ferred to the STEM action center.~~

46 (ie) Deemed leased. If an owner fails to make an election within the
47 election period set forth in the integration order, such owner's inter-
48 est will be deemed leased under the terms and conditions in the integra-
49 tion order. The owner shall receive one-eighth (1/8) royalty. The op-
50 erator of an integrated spacing unit shall pay a leasing owner the same

1 bonus payment per acre as the operator originally paid to other owners
2 in the spacing unit prior to the issuance of the integration order.

3 If one (1) or more of the owners shall drill, equip~~r~~ and operate, or operate,
4 or pay the costs of drilling, equipping~~r~~ and operating, or operating, a well
5 for the benefit of another person as provided for in an order of integration,
6 then such owners or owner shall be entitled to the share of production from
7 the spacing unit accruing to the interest of such other person, exclusive of
8 a royalty not to exceed one-eighth (1/8) of the production, until the market
9 value of such other person's share of the production, exclusive of such roy-
10 alty, equals the sums payable by or charged to the interest of such other per-
11 son. If there is a dispute as to the costs of drilling, equipping, or oper-
12 ating a well, the department shall determine such costs. In instances where
13 a well is completed prior to the integration of interests in a spacing unit,
14 the sharing of production shall be from the effective date of the integra-
15 tion, except that, in calculating costs, credit shall be given for the value
16 of the owner's share of any prior production from the well.

17 ~~(d4)~~ An application for an order integrating the tracts or interests in
18 a spacing unit shall substantially contain and be limited to only the follow-
19 ing:

20 ~~(i)a~~ The applicant's name and address;

21 ~~(i)b~~ A description of the spacing unit to be integrated;

22 ~~(i)c~~ A geologic statement concerning the likely presence of hydrocar-
23 bons;

24 ~~(i)d~~ A statement that the proposed drill site is leased;

25 ~~(e)~~ A statement of the proposed operations for the spacing unit, in-
26 cluding the name and address of the proposed operator;

27 ~~(f)~~ A proposed joint operating agreement and a proposed lease form;

28 ~~(g)~~ A list of all uncommitted owners in the spacing unit to be inte-
29 grated under the application, including names and addresses;

30 ~~(h)~~ An affidavit indicating that at least ~~fifty-five~~ sixty-seven
31 percent (~~55~~67%) of the mineral interest acres in the spacing unit sup-
32 port the integration application by leasing or participating as a work-
33 ing interest owner;

34 ~~(i)~~ An affidavit stating the highest bonus payment paid to a leased
35 owner in the spacing unit being integrated prior to filing the integra-
36 tion application; and

37 ~~(j)~~ A resume of efforts documenting the applicant's good faith ef-
38 forts on at least two (2) separate occasions within a period of time
39 no less than sixty (60) days to inform uncommitted owners of the ap-
40 plicant's intention to develop the mineral resources in the proposed
41 spacing unit and desire to reach an agreement with uncommitted owners
42 in the proposed spacing unit. Provided however, if any owner requests
43 no further contact from the applicant, the applicant will be relieved
44 of further obligation to attempt contact to reach agreement with that
45 owner. At least one (1) contact must be by certified U.S. mail sent
46 to an owner's last known address. If an owner is unknown or cannot be
47 found, the applicant must publish a legal notice of its intention to
48 develop and request that the owner contact the applicant in a newspaper
49 in the county where the proposed spacing unit is located. The resume of
50 efforts should indicate the applicant has made reasonable efforts to

1 reach an agreement with all uncommitted owners in the proposed spacing
 2 unit. Reasonable efforts are met by complying with this subsection.
 3 An application shall not be required to be in any particular format. An ap-
 4 plication shall not be denied or refused for incompleteness if it complies
 5 substantially with the foregoing informational requirements.

6 (e~~5~~) At the time the integration application is filed with the depart-
 7 ment, the applicant shall certify that, for uncommitted owners who are un-
 8 known or cannot be found, a notice of the application was published in a news-
 9 paper in the county where the proposed spacing unit is located. Each pub-
 10 lished notice shall include notice to the affected uncommitted owner of the
 11 opportunity to respond to the application, and the deadline by which a re-
 12 sponse must be filed with the department.

13 ~~(f) The information supplied by the applicant pursuant to subsection~~
 14 ~~(d) (vii) of this section and the names and addresses of the uncommitted own-~~
 15 ~~ers pursuant to subsection (d) (x) of this section shall be deemed trade se-~~
 16 ~~crets and kept confidential by the department until the well is producing~~
 17 ~~in the proposed spacing unit, and thereafter shall be subject to disclosure~~
 18 ~~pursuant to chapter 1, title 74, Idaho Code, provided that the information~~
 19 ~~regarding an uncommitted owner shall be subject to disclosure to that owner.~~

20 (g~~6~~) An application for integration shall be subject to the procedures
 21 set forth in section 47-~~324~~328, Idaho Code.

22 SECTION 14. That Section 47-323, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 ~~47-323~~321. UNIT OPERATIONS. (1) An agreement for the unit or coopera-
 25 tive development or operation of a field, pool, or part thereof, may be sub-
 26 mitted to the department for approval as being in the public interest or rea-
 27 sonably necessary to prevent waste or protect correlative rights. Such ap-
 28 proval shall constitute a complete defense to any suit charging violation of
 29 any statute of the state relating to trusts and monopolies on account thereof
 30 or on account of operations conducted pursuant thereto. The failure to sub-
 31 mit such an agreement to the department for approval shall not for that rea-
 32 son imply or constitute evidence that the agreement or operations conducted
 33 pursuant thereto are in violation of laws relating to trusts and monopolies.

34 (2) The department, upon its own determination or upon application of
 35 an owner, shall conduct a hearing to consider the need for unit operation of
 36 an entire pool or portion thereof, to increase ultimate recovery of oil and
 37 gas from that pool or portion thereof. The department shall issue an order
 38 requiring unit operation if it finds that:

39 (a) Unit operation of the pool or portion thereof is reasonably neces-
 40 sary to prevent waste or to protect correlative rights;

41 (b) Unit operation of the pool or portion thereof is reasonably nec-
 42 essary for maintaining or restoring reservoir pressure, or to imple-
 43 ment cycling, water flooding, enhanced recovery, horizontal drilling,
 44 de-watering or a combination of these operations or other operations or
 45 objectives to be cooperatively pursued with the goal of increasing the
 46 ultimate recovery of oil and gas; and

47 (c) The estimated cost to conduct the unit operation will not exceed the
 48 value of the estimated recovery of additional oil and gas resulting from
 49 unit operation.

1 (3) An application for requesting an order providing for the operation
2 as a unit of one (1) or more pools or parts thereof in a field shall contain:

3 (a) A plat map showing the proposed unit, the existing spacing units,
4 and well(s) within the units;

5 (b) The names and addresses of all persons owning mineral interests and
6 working interests in the proposed unit;

7 (c) An affidavit that the applicant, by certified mail, notified all
8 persons owning unleased mineral interests and working interests in the
9 proposed unit at least sixty (60) days prior to filing the application
10 with the department of the applicant's intention to make the applica-
11 tion;

12 (d) A proposed plan of unit operations for the proposed unit that con-
13 tains the information in subsection (5) of this section; and

14 (e) A proposed operating agreement that is consistent with the proposed
15 plan of unit operations.

16 (4) An application for unit operations shall be subject to the proce-
17 dures set forth in section 47-~~324~~328, Idaho Code.

18 (5) An order for a unit operation must be upon just and reasonable terms
19 and conditions and shall prescribe a plan for unit operations that include
20 all of the following:

21 (a) A description of the vertical and horizontal limits of the unit
22 area;

23 (b) A statement of the nature of the operation contemplated;

24 (c) A provision for the supervision and conduct of the unit operation
25 that designates an operator of the unit and provides a means to remove
26 the operator and designate a successor operator;

27 (d) A provision to protect correlative rights, allocating to each sep-
28 arately owned tract in the unit area a just and equitable share of the
29 production that is produced and saved from the unit area, other than
30 production used or unavoidably lost in the conduct of the unit opera-
31 tion;

32 (e) A provision for credits and charges to adjust among working inter-
33 est owners in the unit area for their interest in wells, tanks, pumps,
34 machinery, materials and equipment that contribute to the unit opera-
35 tion;

36 (f) A provision establishing how the costs of unit operation, including
37 capital investments and costs of terminating the unit operation, shall
38 be determined and charged to each working interest owner or the inter-
39 est of each owner, including a provision establishing how, when and by
40 whom the share of unit production allocated to an owner who does not pay
41 the share of those costs charged to that owner or to the interest of that
42 owner may be sold and the proceeds applied to the payment of that owner's
43 share of those costs, and how accounts will be settled upon termination
44 of the unit;

45 (g) A provision, if necessary, for carrying or otherwise financing an
46 owner who elects to be carried or otherwise financed, which allows own-
47 ers who carry or otherwise finance to recover up to three hundred per-
48 cent (300%) of the unit costs attributed to an owner who elects to be
49 carried or otherwise financed payable out of that owner's share of the
50 production;

1 (h) A time when the unit operation is to commence and the manner in
2 which, and the circumstances under which, the unit operation is to ter-
3minate and the unit is to be dissolved; and

4 (i) Additional provisions found to be appropriate to carry on the unit
5 operation, to prevent waste and to protect correlative rights.

6 (6) An order for a unit operation may provide for a unit operation of
7 less than the whole of a pool ~~so~~ as long as the unit area is of size and shape
8 reasonably required for that purpose and the conduct thereof will have no
9 significant adverse effect upon other portions of the pool.

10 (7) The department, upon its own determination or upon the application
11 of an owner, may for good cause terminate a unit operation and dissolve the
12 unit on just and equitable terms. If not terminated earlier, the unit op-
13 eration shall terminate upon final cessation of production from the pool or
14 unitized portion thereof, the plugging and abandonment of unit wells and fa-
15 cilities, and reclamation of the surface.

16 (8) An order requiring a unit operation shall not become effective un-
17 til the plan for unit operations approved by the department has been signed
18 and approved in writing by the owners who, under the department's order, will
19 be required to pay at least ~~fifty-five~~ sixty-seven percent (~~55~~67%) of the
20 costs of the unit operation, and also signed and approved in writing by the
21 working interest owners of at least ~~fifty-five~~ sixty-seven percent (~~55~~67%)
22 of the production of the unit operations, and the department has made a find-
23 ing in the order that the plan for unit operations has been so approved.

24 (9) An order providing for unit operation may be amended by an order of
25 the department in the same manner and subject to the same conditions as an
26 original order providing for the unit operation.

27 (10) The department may issue an order for the unit operation of a pool
28 or pools or parts thereof that includes a unit created by a prior order of the
29 department or by voluntary agreement. This subsequent order, in providing
30 for the allocation of the unit's production, must treat first the unit area
31 previously created as a single tract and then allocate, in the same propor-
32 tions as those specified in the prior order, the portion of the new unit's
33 production allocated to the previous unit among the separately owned tracts
34 included in the previously created unit area.

35 (11) The department may approve additions to the unit of portions of a
36 pool not previously included within the unit and may extend the unit area as
37 reasonably necessary to prevent waste or to protect correlative rights. The
38 department may approve exclusions from the unit area as reasonably necessary
39 to prevent waste or to protect correlative rights. An order adding to or ex-
40 cluding from a unit area must be upon just and reasonable terms.

41 (a) An order that amends a plan of unit operations and adds an area
42 to a previously established unit shall not become effective until
43 the amended plan of unit operations has been signed and approved in
44 writing by the owners who will be required to pay at least ~~fifty-five~~
45 sixty-seven percent (~~55~~67%) of the costs of the unit operation in the
46 area to be added, and also signed and approved in writing by the working
47 interest owners of at least ~~fifty-five~~ sixty-seven percent (~~55~~67%) of
48 the production of the unit operations, and the department has made a
49 finding in the order that the plan for unit operations has been so ap-
50 proved.

1 (b) An order providing for an exclusion from a unit area may not become
2 effective until an amended plan of unit operations excluding an area
3 from the unit has been approved in writing by the owners in the origi-
4 nal unit area that are required to pay at least ~~fifty-five~~ sixty-seven
5 percent (~~55~~67%) of the costs of unit operations, and also approved in
6 writing by the working interest owners in the original unit area re-
7 quired to pay at least ~~fifty-five~~ sixty-seven percent (~~55~~67%) of the
8 production of the unit operations, and the department has made a finding
9 in the order that the plan for unit operations has been so approved.

10 (12) Operations, including the commencement, drilling or operation of a
11 well upon a portion of a unit area, are deemed conducted on each separately
12 owned tract in the unit area by the owner or owners thereof. That portion
13 of a unit's production allocated to a separately owned tract in a unit area,
14 when produced, is deemed produced from a well drilled on that tract. Opera-
15 tions conducted under an order of the department providing for a unit oper-
16 ation shall constitute fulfillment of expressed or implied obligations of a
17 lease or contract covering lands within the unit area to the extent that com-
18 pliance with those obligations is not possible without a further order of the
19 department.

20 (13) That portion of unit production allocated to a tract and the pro-
21 ceeds of sale for that portion are deemed the property and income of the sev-
22 eral persons to whom or to whose credit that portion is allocated or payable
23 under the order providing for unit operation.

24 (14) A division order or other contract relating to a sale or purchase of
25 production from a separately owned tract or combination of tracts remains in
26 force and applies to oil and gas allocated to the tract until terminated in
27 accordance with provisions of the order providing for unit operation, or in
28 accordance with the terms of such division order or other contract.

29 (15) Except to the extent that all affected parties agree, an order pro-
30 viding for unit operation does not result in a transfer of all or part of a
31 person's title to the oil and gas rights in a tract in the unit area.

32 (16) Except to the extent that all affected parties agree, all property,
33 whether real or personal, that may be acquired in the conduct of a unit oper-
34 ation hereunder is deemed acquired for the account of the owners within the
35 unit area and is deemed the property of the owners in the proportion that the
36 expenses of the unit operation are charged.

37 (17) The formation of a unit and the operation of the unit under an order
38 of the department shall not be in violation of any statute of this state re-
39 lating to trusts, monopolies, contracts or combinations in the restraint of
40 trade.

41 SECTION 15. That Chapter 3, Title 47, Idaho Code, be, and the same is
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
43 ignated as Section 47-322, Idaho Code, and to read as follows:

44 47-322. OIL AND GAS METERING SYSTEMS. (1) Application of section.
45 This section is applicable to all metering stations measuring production
46 from oil and gas wells within the state of Idaho, including private, state,
47 and federal wells. If these rules differ from federal requirements on mea-
48 surement of production from federal oil and gas wells, the federal rules take
49 precedence.

- 1 (2) Definitions. As used in this section:
2 (a) "Allocation meter" means a meter used by the producer to determine
3 the volume from an individual well before it is commingled with pro-
4 duction from one (1) or more other wells prior to the custody transfer
5 point.
6 (b) "Calibration test" means the process or procedure of adjusting an
7 instrument, such as a gas meter, so its indication or registration is in
8 satisfactorily close agreement with a reference standard.
9 (c) "Custody transfer meter" means a meter used to transfer oil and gas
10 from the producer to a transporter or purchaser.
11 (d) "Gas gathering meter" means a meter used in the custody transfer of
12 gas into a gathering system.
13 (e) "Meter factor" means a number obtained by dividing the net vol-
14 ume of fluid, whether liquid or gaseous, passed through the meter during
15 proving by the net volume registered by the meter.
16 (f) "Metering proving" means the procedure required to determine
17 the relationship between the true volume of a fluid, whether liquid or
18 gaseous, measured by a meter and the volume indicated by the meter.
19 (3) Inventory filing requirements. The owner of metering equipment
20 shall file with the department an inventory of all meters used for custody
21 transfer and allocation of production from oil and gas wells, or both. In-
22 ventories must be updated on an annual basis and filed with the department
23 on or before the first day of each year, or they may be updated as frequently
24 as monthly, at the discretion of the operator. Inventories must include the
25 following:
26 (a) Well name and legal description of location, or meter location if
27 different;
28 (b) Idaho well file number;
29 (c) Meter information:
30 (i) Gas meters: make and model; differential, static and temper-
31 ature range; orifice tube size (diameter); and meter station num-
32 ber.
33 (ii) Oil meters: make and model; size; and meter station number.
34 (4) Installation and removal of meters.
35 (a) The department must be notified of all custody transfer meters
36 placed in service. The owner of the custody transfer equipment shall
37 notify the department of the date a meter is placed in service, the make
38 and model of the meter, and the meter or station number. The department
39 must also be notified of all metering installations removed from ser-
40 vice. The notice must include the date the meter is removed from service
41 and the meter or station number. The required notices must be filed with
42 the department within thirty (30) days of the installation or removal of
43 a meter.
44 (b) All allocation meters must be approved prior to installation and
45 use. The application for approval must be on a form provided by the de-
46 partment and shall include the make and model number of the meter, the
47 meter or station number, the well name, its location, and the date the
48 meter will be placed in service.
49 (c) Meter installations for measuring production from oil or gas
50 wells, or both, must be constructed to American petroleum institute

1 or American gas association standards or to the meter manufacturer's
2 recommended installation. Meter installations constructed in accor-
3 dance with American petroleum institute or American gas association
4 standards in effect at the time of installation shall not automatically
5 be required to retrofit if standards are revised. The department will
6 review any revised standards and will amend the requirements as neces-
7 sary.

8 (5) Registration of persons proving or testing meters. All persons
9 engaged in meter proving or testing of oil and gas meters must be registered
10 to do business with the secretary of state. Any meter tests performed by a
11 person not registered with the department will not be accepted as a valid
12 test. Those persons involved in oil meter testing, by flowing fluid through
13 the meter into a test tank and then gauging the tank, are exempted from the
14 registration process. However, such persons must notify the department
15 prior to commencement of the test to allow a representative of the department
16 to witness the testing process. A report of the results of the test shall
17 be filed with the department within thirty (30) days after the test is com-
18 pleted. Registration must include the following:

- 19 (a) Name and address of company;
- 20 (b) Name and address of measurement personnel; and
- 21 (c) Qualifications, listing experience or specific training.

22 (6) Calibration requirements. Oil and gas metering equipment must be
23 proved or tested to American petroleum institute or American gas associa-
24 tion standards or to the meter manufacturer's recommended procedure to es-
25 tablish a meter factor or to ensure measurement accuracy. The owner of a cus-
26 tody transfer meter or allocation meter shall notify the department at least
27 ten (10) days prior to the testing of any meter.

28 (a) Oil allocation meter factors shall be maintained within two per-
29 cent (2%) of the original meter factor. If the factor change between
30 provings or tests is greater than two percent (2%), the meter must be re-
31 paired or adjusted and tested within forty-eight (48) hours of repair or
32 be replaced.

33 (b) Copies of all oil allocation meter test procedures are to be filed
34 with and reviewed by the department to ensure measurement accuracy.

35 (c) All gas meters must be tested with a minimum of a three (3) point
36 test for static and differential pressure elements and a two (2)
37 point test for temperature elements. The test reports must include an
38 as-found and as-left test and a detailed report of changes.

39 (d) Test reports must include the following:

- 40 (i) Producer name;
- 41 (ii) Lease name;
- 42 (iii) Pipeline company or company name of test contractor;
- 43 (iv) Test personnel's name; and
- 44 (v) Station or meter number.

45 (e) Unless required more often by the department, minimum frequency of
46 meter proving or calibration tests is as follows:

- 47 (i) Oil meters used for custody transfer shall be proved monthly
48 for all measured volumes that exceed two thousand (2,000) barrels
49 per month. For volumes of two thousand (2,000) barrels or less per

1 month, meters shall be proved at each two thousand (2,000) barrel
2 interval or more frequently at the discretion of the operator;

3 (ii) Quarterly, for oil meters used for allocation of production;

4 (iii) Semiannually, for gas meters used for allocation of produc-
5 tion;

6 (iv) Semiannually, for gas meters in gas gathering systems;

7 (v) For meters measuring more than one hundred thousand (100,000)
8 cubic feet per day on a monthly basis, orifice plates shall be in-
9 spected semiannually, and meter tubes shall be inspected at least
10 every five (5) years to ensure continued conformance with the
11 American gas association meter tube specifications; and

12 (vi) For meters measuring one hundred thousand (100,000) cubic
13 feet per day or less on a monthly basis, orifice plates shall be in-
14 spected annually.

15 (f) Meter test reports must be filed within thirty (30) days of comple-
16 tion of proving or calibration tests unless otherwise approved. Test
17 reports are to be filed on, but not limited to, all meters used for allo-
18 cation measurement of oil and gas and all meters used in crude oil cus-
19 tody transfer.

20 (g) Accuracy of all equipment used to test oil and gas meters must be
21 traceable to the standards of the national institute of standards and
22 technology. The equipment must be certified as accurate either by the
23 manufacturer or an independent testing facility. The certificates of
24 accuracy must be made available upon request. Certification of the
25 equipment must be updated as follows:

26 (i) Annually, for all equipment used to test the pressure and dif-
27 ferential pressure elements;

28 (ii) Annually, for all equipment used to determine temperature;

29 (iii) Every six (6) months, for all conventional pipe provers;

30 (iv) Annually, for all master meters; and

31 (v) Every five (5) years, for equipment used in orifice tube in-
32 spection.

33 (7) Variances. Variances from all or part of this section may be
34 granted by the department on the basis of economic necessity, providing the
35 variance does not affect measurement accuracy. All requests for variances
36 must be on a form provided by the department. A register of variances re-
37 quested and approved must be maintained by the department.

38 SECTION 16. That Chapter 3, Title 47, Idaho Code, be, and the same is
39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
40 ignated as Section 47-323, Idaho Code, and to read as follows:

41 47-323. COMMINGLING OF PRODUCTION. A producer shall not, prior to me-
42 tering, commingle production from two (2) or more oil and gas wells without
43 prior approval from the department after notice and opportunity for hearing.

44 SECTION 17. That Chapter 3, Title 47, Idaho Code, be, and the same is
45 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
46 ignated as Section 47-324, Idaho Code, and to read as follows:

1 47-324. REPORTING BY OPERATORS. Operators shall file reports and logs
2 with the department of lands as provided in this section:

3 (1) Monthly oil and gas production report.

4 (a) Each operator shall complete a monthly production report to prop-
5 erly account for all oil and gas, natural gas liquids, and water pro-
6 duced from each well measured at the location of the well or processing
7 plant, prior to leaving the well site or the gathering facility.

8 (b) This report shall be submitted to the department and to the royalty
9 owner before the fifteenth day of the second calendar month following
10 the month of production.

11 (c) Drilling and work-over reports are to be filed with the Idaho de-
12 partment of lands within thirty (30) days of completing or plugging the
13 well.

14 (d) Initial production reports following completions shall be reported
15 to the department within thirty (30) days.

16 (e) All hydrocarbons, water, or gas produced during initial testing of
17 wells is to be included in the initial production report, and royalties
18 shall be calculated and paid for any oil or condensate during the test.

19 (f) Gas may be flared for fourteen (14) days and shall be reported to the
20 department. Gas flared shall be royalty-free for fourteen (14) days.
21 Gas may be flared for an additional sixty (60) days with a variance from
22 the department and with a royalty payment due to the royalty owner.

23 (2) Monthly sales report.

24 (a) Each operator shall complete a monthly sales report to properly ac-
25 count for all sales of hydrocarbons including gas plant products pro-
26 duced from each well and refined at any gas plant.

27 (b) This report shall be submitted to the department and to the royalty
28 owner forty-five (45) days following the date of sale or payment.

29 (c) A copy of the sales receipts or tickets shall accompany the report.

30 (d) Sales reports shall be filed with the Idaho department of lands and
31 the Idaho state tax commission.

32 (e) Sales reports and production reports shall be reconciled monthly by
33 the department and the Idaho state tax commission.

34 (3) Monthly oil and gas disposition report.

35 (a) All oil and gas well operators shall complete a form on a monthly ba-
36 sis to account for all oil and gas dispositions from each well or facil-
37 ity.

38 (b) The report shall account for the physical dispositions of all oil
39 and gas produced during the report month from each well or group of
40 wells, or gas transferred from any gathering facility to any other fa-
41 cility or plant prior to sale, and from processing plants to final sale.

42 (c) This report shall be submitted in the monthly oil and gas production
43 report.

44 (d) All reports required in this subsection shall be submitted to the
45 department on or before the fifteenth day of the second calendar month
46 following the month of production.

47 (4) Report of transferred oil.

48 (a) A report shall be filed with the department by the operator on a
49 monthly basis that accounts for oil transferred from one entity to an-
50 other entity or oil that is acquired and used during remedial operations

1 on a well. This includes all hydrocarbon liquids and situations such as
2 the following:

3 (i) Oil that is produced at one (1) entity or is acquired from an-
4 other company, is then used as load oil at a second entity, and is
5 then recovered and sold.

6 (ii) Oil that is produced and then transferred to a second entity
7 for treatment and sale due to mechanical problems at the producing
8 entity.

9 The transported volumes reported plus the transported volume for the
10 second entity should equal the total run ticket volume as reported by
11 the trucking or pipeline company serving this entity.

12 (b) All hydrocarbon liquids including oil, condensate and gas plant
13 derivatives that are transported by any means shall be reported by the
14 transporter monthly.

15 (c) This report is to be filed as an attachment to the monthly oil and
16 gas disposition report during the month in which recovered load oil or
17 any other transferred oil (non-load oil) is sold from the second entity.

18 (d) All reports required in this subsection shall be submitted on or be-
19 fore the fifteenth day of the second calendar month following the month
20 of production.

21 (5) Monthly summary report of gas processing plant operations.

22 (a) Gas processing plant operators shall complete and submit to the
23 department a monthly report to account for the receipt, processing and
24 disposition of all gas by the plant.

25 (b) The report is due on or before the fifteenth day of the second calen-
26 dar month following the operations month covered by the report.

27 (6) Monthly report of gas processing plant product allocations.

28 (a) Gas processing plant operators that are allocating residue gas and
29 extracted liquids to the individual producing wells must report the al-
30 locations monthly to the department.

31 (b) The report is to be filed on or before the fifteenth day of the
32 second calendar month following the operations month covered by the
33 report.

34 (7) Well tests and well logs.

35 (a) All well test reports shall be reported to the department no later
36 than thirty (30) days after the test. An operator must remit the follow-
37 ing logs to the department no later than thirty (30) days after the run
38 date of the log:

39 (i) An open hole electrical, radioactivity or other similar log,
40 or combination of open hole logs, of the operator's choice;

41 (ii) A gamma ray log from total depth to ground level elevation.
42 The operator may request a lessor-logged area if it determines
43 that the log is unnecessary or impractical or if hole conditions
44 risk jeopardizing the open hole; and

45 (iii) A cement bond log across the casing, verifying the formation
46 seal integrity and isolation.

47 (b) The final processed versions of the logs in this subsection shall be
48 submitted to the department in paper and digital formats within thirty
49 (30) days of the log being run. If logs were run in color, then the sub-
50 mitted copies shall also be in color. Digital formats must be TIFF and

1 LAS 2.0 or higher. Logs submitted to the department must have a scale of
 2 at least one (1) inch per one hundred (100) feet for correlation logs and
 3 five (5) inches per one hundred (100) feet for detail logs.

4 (8) Should an operator fail to comply with this section, the department
 5 shall order the well or gas facilities to be shut-in.

6 SECTION 18. That Section 47-326, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 ~~47-326~~325. FALSIFICATION OF RECORDS -- LIMITATION OF ACTIONS. (a1)
 9 Any person who, for the purpose of evading this act or any rule, regulation
 10 or order of the commission shall make or cause to be made any false entry in
 11 any report, record, account, or memorandum required by this act, or by any
 12 such rule, regulation or order, or shall omit, or cause to be omitted, from
 13 any such report, record, account, or memorandum, full, true and correct en-
 14 tries as required by this act, or by any such rule, regulation or order, or
 15 shall remove from this state or destroy, mutilate, alter or falsify any such
 16 record, account, or memorandum, shall be guilty of a misdemeanor and, upon
 17 conviction, shall be subject to a fine of not more than five thousand dollars
 18 (\$5,000) or imprisonment for a term not exceeding twelve (12) months, or to
 19 both such fine and imprisonment.

20 (b2) No suit, action or other proceeding based upon a violation of this
 21 act or any rule, regulation or order of the commission hereunder shall be
 22 commenced or maintained unless same shall have been commenced within one (1)
 23 year from date of the alleged violation. Provided however, the provisions
 24 of this subsection shall not apply to actions governed by the provisions of
 25 chapter 52, title 67, Idaho Code.

26 SECTION 19. That Chapter 3, Title 47, Idaho Code, be, and the same is
 27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 28 ignated as Section 47-326, Idaho Code, and to read as follows:

29 47-326. PUBLIC DATA. (1) Subject only to any applicable provisions of
 30 section 47-327, Idaho Code, the following data is public information that
 31 shall not be considered trade secret information under chapter 8, title 48,
 32 Idaho Code, nor be exempt from public records disclosure under chapter 1, ti-
 33 tle 74, Idaho Code. Except as provided in section 47-327, Idaho Code, the de-
 34 partment shall immediately, upon receipt of the information, make publicly
 35 available all data under this section on its website without requiring any
 36 person to submit a public records request:

- 37 (a) All production reports;
- 38 (b) All well test reports;
- 39 (c) All well plats;
- 40 (d) All permits, provided that seismic data may be redacted on well per-
 41 mits;
- 42 (e) Gas analysis;
- 43 (f) Perforated zones and test results;
- 44 (g) All completion reports and any associated information and docu-
 45 ments, affidavits of test, well schematics and logs;
- 46 (h) All work-over reports and associated information;
- 47 (i) All drilling reports and associated information and affidavits;

1 (j) Every six (6) months, potential tests of one (1) day's production
2 with gas produced, water produced, oil or condensate produced, choke
3 size, flowing tubing pressure and any BHP data in interim;

4 (k) All logs run for any reason; and

5 (l) Meter calibration results received pursuant to section 47-322,
6 Idaho Code.

7 (2) The department shall provide complete internet access to all docu-
8 ments in subsection (1) of this section, not granted confidential status, on
9 its website by no later than December 31, 2017.

10 (3) All claims of exemption from disclosure for data under this section
11 shall be supported and accompanied by a specific citation to the law autho-
12 rizing an exemption from disclosure and an explanation of how the data meets
13 the standards for being withheld from disclosure. When a portion of a record
14 or a portion of a page in that record is subject to disclosure and the other
15 portion is subject to a claim that it is exempt from disclosure under this
16 chapter or chapter 1, title 74, Idaho Code, the person making the claim must
17 clearly identify the portion claimed as exempt and the portion not claimed as
18 exempt from disclosure at the time of submittal.

19 SECTION 20. That Chapter 3, Title 47, Idaho Code, be, and the same is
20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
21 ignated as Section 47-327, Idaho Code, and to read as follows:

22 47-327. CONFIDENTIALITY OF WELL AND TRADE INFORMATION. (1) This sec-
23 tion governs data that shall be held confidential from the public. Unless
24 the operator requests confidential treatment of a well log pursuant to this
25 section, any well log submitted to the department shall be available for pub-
26 lic inspection. Information that shall be held confidential from the pub-
27 lic includes well logs granted tight hole status pursuant to subsection (2)
28 of this section, electrical or radioactivity logs, electromagnetic or mag-
29 netic surveys, core descriptions and analysis, maps, and other geological,
30 geophysical and engineering information. Seismic data shall remain confi-
31 dential from all parties at the discretion of the operator due to the nature
32 of purchasing and licensing such data.

33 (2) To obtain confidential treatment of a well log for a well with tight
34 hole status, the operator of the well shall submit the well log to the depart-
35 ment in a sealed envelope marked "confidential" within thirty (30) days from
36 the date the well log was run. Tight hole status may be applied for when fil-
37 ing for the drilling permit and is only available to a well that is more than
38 four (4) miles from any other producing well. Well logs granted confidential
39 treatment shall be kept confidential for six (6) months after the run date on
40 the log, unless the operator gives written permission to release the log at
41 an earlier date. Upon written request, the department may administratively
42 extend the period of confidentiality for up to an additional six (6) months.
43 Under no circumstances shall confidentiality be granted for a period in ex-
44 cess of twelve (12) months from the date the log was run on the well. The pe-
45 riod of tight hole status for the drilling program shall begin at the time the
46 drilling permit is submitted for approval. The information in the applica-
47 tion form itself will not be considered confidential.

1 (3) Initial well test reports on wells granted tight hole status shall
2 be kept confidential by the state of Idaho for ninety (90) days from the date
3 of the test.

4 (4) The Idaho department of lands and the Idaho state tax commission
5 shall share any data, information, copies of submitted forms or any other
6 documents filed with the state concerning oil and gas. The sharing of infor-
7 mation between the department and the state tax commission does not render
8 the shared information subject to disclosure to other persons under the pub-
9 lic records act.

10 (5) All state agencies, state employees, contract personnel, temporary
11 personnel and their agents or affiliates shall be governed by the confiden-
12 tiality provisions of this section and shall be subject to the penalty of
13 law under section 74-117, Idaho Code, should any information or records pro-
14 tected under statute be disclosed.

15 SECTION 21. That Section 47-324, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 ~~47-324~~328. RULES FOR COMMISSION -- ADMINISTRATIVE PROCEDURES. (a~~1~~)
18 The commission shall have authority to hear rulemaking proceedings,
19 complaints filed with it pursuant to this chapter and appeals from the
20 ~~director's oil and gas administrator's~~ decision on an application filed
21 pursuant to this chapter. The commission may prescribe rules governing
22 the procedure before it, subject to the provisions of the administrative
23 procedure act, chapter 52, title 67, Idaho Code. Provided however, that no
24 rulemaking may be conducted for twelve (12) months from the date of this act.

25 (b~~2~~) In all cases where ~~a~~ a complaint is made by the commission or any
26 person that any provision of this act, or any rule or order of the commis-
27 sion is being violated, notice of any hearing to be held on such application
28 or complaint, the commission shall serve notice on the interested parties by
29 certified mail, return receipt requested, or in the same manner as is pro-
30 vided in the rules of civil procedure for the service of summons in civil ac-
31 tions. Where the interested ~~party~~ person is unknown or cannot be located,
32 the commission shall serve notice by publishing at least one (1) notice of
33 the hearing to such person in a newspaper in the county where the affected
34 tract is located. Such notice must be sent, delivered or published, as ap-
35 propriate, at least five (5) business days before the date of the hearing.

36 (e~~3~~) Except as provided in section ~~47-324~~316(1) (a), Idaho Code, and
37 subsection (b~~2~~) of this section, any request for an order related to oil and
38 gas activities within the commission's jurisdiction, other than a civil
39 penalty proceeding pursuant to section ~~47-325~~329, Idaho Code, or other en-
40 forcement action by the department of lands or the commission, shall be made
41 by application to the department of lands.

42 (i~~a~~) The department shall notify the applicant within five (5) busi-
43 ness days of receipt of an application if the application is administra-
44 tively incomplete, and in such notice shall identify the missing item or
45 items to be supplied in order to make the application complete.

46 (i~~ib~~) A decision on the merits of the application shall be made by the
47 director. The ~~director's oil and gas administrator's~~ decision shall
48 not be subject to any motion for reconsideration or further review,

1 except for appeal to the commission provided in subsection (~~d~~4) of this
2 section.

3 (~~iii~~c) For applications involving an order regarding unit operations
4 or integration of a drilling unit, the department shall send a copy of
5 the application and supporting documents to all known and located un-
6 committed owners, to all working interest owners within the unit, and to
7 the respective city or county where the proposed unit is located. The
8 mailing shall include notice of the hearing date on which the ~~director~~
9 oil and gas administrator will consider the application. The applica-
10 tion shall be redacted pursuant to section 47-322(~~f~~)320(6), Idaho Code,
11 and sent by certified mail. Upon request, the applicant shall reimburse
12 the department for actual mailing costs incurred under this subsection.
13 For any uncommitted owners and working interest owners who cannot be lo-
14 cated, an applicant shall publish notice of any application for an order
15 once in a newspaper in the county in which the affected property is lo-
16 cated, and request the department publish notice on its website, within
17 seven (7) calendar days of filing of the complete application. Only an
18 uncommitted owner in the affected unit may file an objection or other
19 response to the application, and the uncommitted owner shall file seven
20 (7) calendar days before the hearing date provided in the notice.

21 (~~iv~~d) For applications not involving paragraph (~~iii~~c) of this subsec-
22 tion, including exceptional locations, any uncommitted owner within
23 the area defined in the application may file an objection or other re-
24 sponse to the application, and the uncommitted owner shall file seven
25 (7) calendar days before the hearing date provided in the notice.

26 (~~v~~e) The ~~director~~ oil and gas administrator shall hear an application
27 within thirty (30) calendar days of the filing of a complete applica-
28 tion. Discovery is not permitted. The ~~director~~ oil and gas administra-
29 tor shall issue a written decision on any such application within thirty
30 (30) calendar days of the hearing.

31 (~~d~~4) The ~~director's~~ oil and gas administrator's decision on an appli-
32 cation for an order may be appealed to the commission by the applicant or any
33 owner who filed an objection or other response to the application within the
34 time required. An appeal must be filed with the ~~director~~ oil and gas admin-
35 istrator within fourteen (14) calendar days of the date of issuance of the
36 ~~director's~~ oil and gas administrator's written decision. The date of is-
37 surance shall be three (3) calendar days after the ~~director~~ oil and gas ad-
38 ministrator deposits the decision in the U.S. mail, or the date on which he
39 remits a decision electronically. Such appeal shall include the reasons and
40 authority for the appeal, and shall identify any facts in the record support-
41 ing the appeal. Any person appealing shall serve a copy of the appeal mate-
42 rials on any other person who participated in the proceedings below, by cer-
43 tified mail, or by personal service. Any person who participated in the pro-
44 ceeding below may file a response to the appeal within five (5) calendar days
45 of service of a copy of the appeal materials. The appellant shall provide the
46 ~~director~~ oil and gas administrator with proof of service of the appeal ma-
47 terials on other persons as required in this section. The commission shall
48 make a decision based on the record below as set forth in the written submit-
49 tals of only the appellant and any other participating qualified person, the

1 ~~director's~~ oil and gas administrator's decision, and any oral argument taken
2 by the commission at an appeal hearing.

3 (e5) Appeals to the commission shall be heard at the next regularly
4 scheduled commission hearing, or at a special meeting of the commission if
5 determined by the commission. In no case will a hearing be later than thirty
6 (30) days after the filing of an appeal. The commission may take argument
7 from, but not new testimony of, the appellant and other qualified partici-
8 pating persons at the hearing. The commission shall make a decision on the
9 appeal at the hearing and direct the department to issue a written order
10 within five (5) business days of the hearing. The prevailing party shall
11 draft a proposed written order and submit it to the department within two (2)
12 business days. The final order of the commission shall not be subject to any
13 motion for reconsideration.

14 (~~f6~~) If no appeal is filed with the commission within the required time,
15 the decision of the ~~director~~ oil and gas administrator shall become the final
16 order.

17 (~~g7~~) Judicial review of actions taken by the commission shall be gov-
18 erned by the provisions of chapter 52, title 67, Idaho Code. Only a person
19 qualified under subsection (~~d4~~) of this section who has completed the appeal
20 procedures set forth in this section shall be considered to have exhausted
21 administrative remedies as required in section 67-5271, Idaho Code.

22 (~~h8~~) Each order shall include a reasoned statement in support of the
23 decision, including a concise statement of facts supporting any findings,
24 a statement of available procedures and time limits for appeals. Findings
25 must be based exclusively on materials in the record. The applicant and any
26 participating qualified person shall be served with a copy of the order. The
27 order shall include or be accompanied by a certificate of service.

28 (~~i9~~) Every application shall be signed by the applicant or his repre-
29 sentative, and his address shall be stated thereon. The signature of the ap-
30 plicant or his representative constitutes a certificate by him that he has
31 read the application and that to the best of his knowledge, information and
32 belief there is good ground to support the same. Each application shall be
33 of such form and content and accompanied by the number of copies required by
34 rule of the commission. Each application shall be accompanied by a fee as es-
35 tablished in statute or rule.

36 SECTION 22. That Section 47-325, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 ~~47-325329.~~ 47-325329. POWERS OF COMMISSION -- WITNESSES -- PENALTY. (~~a1~~) Any
39 member of tThe commission, or the secretary thereof, shall have the power
40 to summon witnesses, to administer oaths, and to require the production of
41 records, books, and documents for examination at any hearing or investiga-
42 tion conducted by ~~it~~ the commission.

43 (~~b2~~) In case of failure or refusal on the part of any person to comply
44 with a subpoena issued by the commission, or in case of refusal of any witness
45 to testify as to any matter regarding which he may be interrogated, any dis-
46 trict court in the state, upon the application of the commission, may issue
47 an attachment for such person and compel him to comply with such subpoena,
48 and to attend before the commission and produce such records, books, and doc-
49 uments for examination, and to give his testimony. Such court shall have the

1 power to punish for contempt as in the case of disobedience to a like subpoena
2 issued by the court, or for refusal to testify therein.

3 (e3) Any person who violates or fails to comply with any of the pro-
4 visions of this chapter or any rules or orders made or promulgated hereun-
5 der may be assessed a civil penalty by the commission or its duly authorized
6 agent of not more than ten thousand dollars (\$10,000) for each violation and
7 shall be liable for reasonable attorney's fees. Each day the violation con-
8 tinues shall constitute a separate and additional violation, punishable by
9 separate and additional civil penalties in like amount or other like civil
10 penalties as determined by the commission; provided that the civil penalties
11 do not begin to accrue until the date notice of violation and opportunity to
12 be heard are given.

13 (1a) Assessment of a civil penalty may be made in conjunction with any
14 other commission administrative action.

15 (2b) No civil penalty may be assessed unless the person charged was
16 given notice and opportunity for a hearing pursuant to chapter 52, title
17 67, Idaho Code, which civil penalty begins to accrue no earlier than the
18 date notice of violation and opportunity for a hearing are given.

19 (3c) If the commission is unable to collect such penalty or if any per-
20 son fails to pay all or a set portion of the civil penalty as determined
21 by the commission, it may recover such amount by action in the appropri-
22 ate district court.

23 (4d) Any person against whom the commission has assessed a civil
24 penalty under the provisions of this section may, within twenty-eight
25 (28) days of the final action by the agency making the assessment, ap-
26 peal the assessment to the district court of the county in which the
27 violation is alleged by the commission to have occurred pursuant to
28 chapter 52, title 67, Idaho Code.

29 (5e) All civil penalties collected pursuant to this section shall be
30 remitted to the oil and gas conservation fund.

31 (d4) Whenever it shall appear that any person is violating or threat-
32 ening to violate any provision of this act or any rule, regulation, or order
33 made hereunder, the commission may bring a civil action in the name of the
34 state against such person in the district court in the county of the resi-
35 dence of the defendant, or in the county of the residence of any defendant, if
36 there be more than one (1) defendant, or in the county where the violation is
37 alleged to have occurred, to restrain such person from continuing such vio-
38 lation or from carrying out the threat of violation. In such suit, the court
39 may grant injunctions, prohibitory and mandatory, including temporary re-
40 straining orders and temporary injunctions. In such suit, the commission
41 may seek damages to recover costs caused by such violation including, but not
42 limited to, costs of well control, spill response and cleanup, restoration
43 of fresh waters, well plugging and abandonment, and reclamation of surface
44 disturbance.

45 (e5) Nothing in this act, and no suit by or against the commission, and
46 no violation charged or asserted against any person under any provisions of
47 this act, or any rule, regulation or order issued hereunder, shall impair or
48 abridge or delay any cause of action for damages which any person may have or
49 assert against any person violating any provision of this act, or any rule,
50 regulation, or order issued thereunder. Any person so damaged by the viola-

1 tion may sue for and recover such damages as he otherwise may be entitled to
 2 receive. In the event the commission shall fail to bring suit to enjoin any
 3 actual or threatened violation of this act, or of any rule, regulation or or-
 4 der made hereunder, then any person or party in interest adversely affected
 5 and who has, ten (10) days or more prior thereto, notified the commission in
 6 writing of such violation or threat thereof and has requested the commission
 7 to sue, may, to prevent any or further violation, bring suit for that pur-
 8 pose in the district court of any county in which the commission could have
 9 brought suit.

10 (~~¶~~6) Any person who knowingly violates any provision of this chapter,
 11 or any of the rules promulgated hereunder for carrying out the provisions of
 12 this chapter, or who knowingly fails or refuses to comply with any require-
 13 ments herein specified, or who knowingly interferes with the commission, its
 14 agents, designees or employees in the execution or on account of the execu-
 15 tion of its or their duties under this chapter or rules promulgated here-
 16 under, shall be guilty of a misdemeanor and upon conviction thereof, shall
 17 be fined not more than five thousand dollars (\$5,000) or be imprisoned in a
 18 county jail for not more than twelve (12) months, or be subject to both such
 19 fine and imprisonment.

20 (~~¶~~7) Nothing in this chapter shall be construed as requiring the com-
 21 mission to report minor violations for prosecution when it believes that the
 22 public interest will be best served by suitable warnings or other adminis-
 23 trative action.

24 SECTION 23. That Section 47-330, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 47-330. OIL AND GAS CONSERVATION FUND CREATED -- TAX. (1) For the
 27 purposes of paying the expenses of administration of this act and for the
 28 privilege of extracting oil and gas in this state, there is hereby levied and
 29 imposed on all oil and gas produced, saved and sold or transported from the
 30 premises in Idaho where produced a tax of two and one-half percent (2.5%) of
 31 the gross income received by the producer of the oil or gas produced. "Gross
 32 income" shall mean the amount realized by the producer for sale of the oil or
 33 gas, whether the sale occurs at the wellhead or after transportation of the
 34 product, without deduction for marketing, transportation, manufacturing,
 35 and processing costs borne by the producer. Where the ~~parties to the sale are~~
 36 ~~related parties and the~~ sales price is lower than the price for which that oil
 37 or gas could otherwise have been sold to a ready, willing, and able buyer and
 38 where the taxpayer was legally able to sell the oil or gas to such a buyer,
 39 gross income shall be determined by reference to comparable arms-length
 40 sales of like kind, quality, and quantity ~~in the same field or area~~. For pur-
 41 poses of this subsection, "~~related parties~~" shall be as defined in section
 42 267 of the Internal Revenue Code, as defined, in section 63-3004, Idaho Code.
 43 When tax and royalty payments are not reflective of the daily market prices,
 44 the commission shall have the authority and discretion to review and set the
 45 final sales price for the purposes of royalties and taxes based on the S&P
 46 global platts rockies/northwest monthly average posted price for gas, and
 47 WTI (west Texas intermediate) for oil. This tax is in addition to all other
 48 taxes provided by law. It shall be the duty of the state tax commission to
 49 enforce collection of this tax and to make such rules as may be necessary,

1 pursuant to the provisions of chapter 52, title 67, Idaho Code. All money
2 so collected shall be remitted to the state treasurer for deposit in the oil
3 and gas conservation fund, which fund is hereby created in the office of the
4 state treasurer of the state of Idaho.

5 (2) The persons owning an interest, working interest, royalty inter-
6 est, payments out of production, or any other interest in the oil and gas, or
7 in the proceeds thereof, shall be liable for such tax in proportion to their
8 ownership at the time of production. The tax so assessed and fixed shall
9 be payable ~~quarterly~~ monthly, and the sum so due shall be remitted to the
10 state tax commission, on or before the twentieth of the ~~next~~ month follow-
11 ing the ~~preceding quarter~~ month in which the tax accrued, by the producer on
12 behalf of himself and all other interested persons. The person remitting the
13 tax, as herein provided, is hereby empowered and required to deduct from any
14 amounts due the persons owning an interest in the oil and gas, or in the pro-
15 ceeds thereof, at the time of production a proportionate amount of such tax
16 before making payment to such persons.

17 (3) The tax imposed by this section shall apply to all lands in the state
18 of Idaho, anything in this act to the contrary notwithstanding; provided
19 however, there shall be exempted from the tax hereinabove levied and as-
20 sessed the following, to wit:

21 (a) The interest of the United States of America and the interest of the
22 state of Idaho and the political subdivisions thereof in any oil or gas
23 or in the proceeds thereof.

24 (b) The interest of any Indian or Indian tribe in any oil or gas or the
25 proceeds thereof, produced from lands subject to the supervision of the
26 United States.

27 (c) Oil and gas used in producing operations or for repressuring or re-
28 cycling purposes.

29 (4) To the extent that such sections are not in conflict with the pro-
30 visions of this act, the deficiency in tax and notice of deficiency as well
31 as the collection and enforcement procedures provided by the Idaho income
32 tax act, sections 63-3038, 63-3039, 63-3040, 63-3042 through 63-3065A,
33 63-3068, 63-3071 and 63-3075 through 63-3078, Idaho Code, shall apply and be
34 available to the state tax commission for enforcement of the provisions of
35 this act and the assessment and collection of any amounts due. Said sections
36 shall for this purpose be considered a part of this act and wherever liens
37 or any other proceedings are defined as income tax liens or proceedings they
38 shall, when applied in enforcement or collection pursuant to this act, be
39 described as an oil and gas tax lien or proceeding.

40 The state tax commission may be made a party defendant in an action at
41 law or in equity by any person aggrieved by the unlawful seizure or sale of
42 his property, or in any suit for refund or to recover an overpayment, but
43 only the state of Idaho shall be responsible for any final judgment secured
44 against the state tax commission, and said judgment or any other amount er-
45 roneously or illegally collected shall be paid or satisfied out of the state
46 refund account created by section 63-3067, Idaho Code.

47 (5) All moneys collected under this chapter shall be distributed by the
48 state tax commission as follows:

49 (a) An amount of money shall be distributed to the state refund account
50 sufficient to pay current refund claims. All refunds authorized under

1 this chapter by the state tax commission shall be paid through the state
2 refund account, and those moneys are continuously appropriated.

3 (b) For the balance of the proceeds, forty percent (40%) shall be dis-
4 tributed by the end of the month following ~~each quarterly due date the~~
5 month of receipt by the state tax commission into any oil and gas revenue
6 share account as follows:

7 (i) ~~Twenty-eight~~ Forty-four percent (~~28~~44%) is hereby appropri-
8 ated and shall be paid to the current expense fund of the county
9 from which the oil or gas was produced, to be used to mitigate the
10 impacts associated with oil and gas production, development and
11 transportation in that county;

12 (ii) ~~Twenty-eight~~ percent (28%) is hereby appropriated and shall
13 be paid to the cities within the county from which the oil or gas
14 was produced. Such funds shall be distributed to each city based
15 upon the proportion that the city's population bears to the total
16 population of all of the cities within the county; and

17 (iii) ~~Twenty-eight~~ percent (28%) is hereby appropriated and shall
18 be paid to the public school income fund; ~~and~~

19 (iv) ~~Sixteen percent (16%) shall be transferred to the local eco-~~
20 ~~nomie development account that is hereby created in the agency as-~~
21 ~~set fund to provide assistance in those counties experiencing a~~
22 ~~severe economic hardship due to the cutback or closure of business~~
23 ~~and industry associated with oil or gas production.~~

24 (c) The remainder of the moneys deposited into the oil and gas conser-
25 vation fund, sixty percent (60%) of the proceeds after refunds, may
26 be expended pursuant to legislative appropriation and shall be used
27 for defraying the expenses of the oil and gas conservation commission
28 in carrying out the provisions of this act. At the beginning of each
29 fiscal year, those moneys in the oil and gas conservation fund, after
30 applicable refunds and distribution as noted in paragraphs (a) and (b)
31 of this subsection, that exceed two hundred percent (200%) of the cur-
32 rent year's appropriations for the oil and gas conservation commission
33 shall be transferred to the general fund. The oil and gas conservation
34 commission shall audit all bills for salaries and expenses incurred in
35 the enforcement of this act that may be payable from the oil and gas con-
36 servation fund that shall be audited, allowed and paid as to the claims
37 against the state.

38 (6) The state tax commission, the oil and gas conservation commission,
39 the Idaho geological survey, the department of environmental quality, the
40 department of water resources and the department shall share records as nec-
41 essary to fulfill their duties assigned by law, regardless of whether the
42 data is held confidential from the public under section 47-327, Idaho Code.
43 The sharing of records between these government entities shall not result in
44 the loss of the confidential status assigned to them under this chapter and
45 the public records act. Every employee of these government entities shall
46 be required to maintain the confidential status of the records and is subject
47 to the penalties under section 74-117, Idaho Code, for the disclosure of any
48 such records.

1 SECTION 24. That Chapter 3, Title 47, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 47-331, Idaho Code, and to read as follows:

4 47-331. OBLIGATION TO PAY ROYALTIES AS ESSENCE OF CONTRACT -- INTER-
5 EST. (1) The obligation arising under an oil and gas lease to pay oil or gas
6 royalties to the royalty owner or the owner's assignee, to deliver oil or gas
7 to a purchaser to the credit of the royalty owner or the owner's assignee, or
8 to pay a portion of the proceeds of the sale of the oil or gas to the royalty
9 owner or the owner's assignee is of the essence in the lease contract.

10 (2) Unless otherwise agreed by the parties, a royalty of no less than
11 twelve and one-half percent (12.5%) of the oil or gas or natural gas plant
12 liquids produced and saved shall be paid. The lessee shall make payments in
13 legal tender unless written instructions for payment in kind have been pro-
14 vided.

15 (3) Royalty shall be due on all production from the leased premises ex-
16 cept on that consumed for the direct operation of the producing wells and
17 that lost through no fault of the lessee.

18 (4) Where royalties are paid in legal tender, costs of marketing,
19 transporting and processing oil or gas or natural gas plant liquids, or all
20 of them, produced shall be borne entirely by the lessee, and such cost shall
21 not reduce the lessor's royalty directly or indirectly. Royalties shall be
22 paid based ~~upon~~ on the same sum on which taxes are paid, which, when applica-
23 ble, will consist of the final sales price as determined by the commission
24 under section 47-330, Idaho Code.

25 (5) If the operator under an oil or gas lease places oil or gas royalties
26 into an escrow account pursuant to section 47-318(2), Idaho Code, or fails to
27 pay oil or gas royalties to the royalty owner or the owner's assignee within
28 one hundred twenty (120) days after the first production of oil or gas un-
29 der the lease is marketed, or within sixty (60) days for all oil and ninety
30 (90) days for all gas produced and marketed thereafter, the unpaid royalties
31 shall bear interest at the maximum rate of interest authorized under section
32 28-22-104(1), Idaho Code, from the date due until paid. Provided, however,
33 that whenever the aggregate amount of royalties due to a royalty owner for a
34 six (6) month period is less than fifty dollars (\$50.00), an operator may re-
35 mit the royalties on a semiannual basis without any interest due, and when-
36 ever the aggregate amount of royalties due to a royalty owner for a one (1)
37 year period is less than ten dollars (\$10.00), the operator may remit the
38 royalties on an annual basis without any interest due.

39 (6) A royalty owner seeking a remedy for failure to make payments un-
40 der the lease or seeking payments under this section may file a complaint
41 with the commission pursuant to section 47-329(4), Idaho Code, or may him-
42 self bring an action in the district court pursuant to section 47-333, Idaho
43 Code. The prevailing party in any proceeding brought under this section is
44 entitled to recover court costs and reasonable attorney's fees.

45 (7) This section does not apply if a royalty owner or the owner's as-
46 signee has elected to take the owner's or assignee's proportionate share of
47 production in kind or if there is a dispute as to the title of the minerals or
48 entitlement to royalties, the outcome of which would affect distribution of
49 royalty payments.

1 SECTION 25. That Chapter 3, Title 47, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 47-332, Idaho Code, and to read as follows:

4 47-332. REPORTS TO ROYALTY OWNERS -- MISDEMEANOR. (1) Each royalty
5 payment shall be accompanied by an oil and gas royalty check stub that in-
6 cludes the following information:

7 (a) Lease or well identification;

8 (b) Month and year of sales included in the payment;

9 (c) Total volumes of oil, condensate, natural gas liquids or other liq-
10 uids produced in barrels or gallons, and gas in MCF;

11 (d) Price per barrel, gallon, or MCF, including British thermal unit
12 adjustment of gas sold;

13 (e) Gross production and severance taxes attributable to said inter-
14 est;

15 (f) Net value of total sales attributed to such payment after deduction
16 of gross production and severance taxes;

17 (g) Owner's interest in the well, expressed as a decimal to eight (8)
18 places;

19 (h) Royalty owner's share of the total value of sales attributed to the
20 payment before any deductions;

21 (i) Royalty owner's share of the sales value attributed to the payment,
22 less the owner's share of the production and severance taxes;

23 (j) Deductions attributed individually to any products produced and
24 sold through gas plant operations;

25 (k) Gross market price received for all products produced;

26 (l) The name and contact information of each purchaser beginning at the
27 wellhead, any purchase through tanks, pipeline, any purchases between
28 the wellhead and the gas plant and through to the end purchaser of prod-
29 ucts or refinery and price paid by each purchaser; and

30 (m) An address at which additional information pertaining to the roy-
31 alty owner's interest in production may be obtained and questions may be
32 answered. If information is requested by certified mail, an answer must
33 be mailed by certified mail within thirty (30) days of receipt of the re-
34 quest.

35 (2) All revenue decimals shall be calculated to at least eight (8) deci-
36 mal places.

37 (3) All oil and gas volumes shall be measured by certified and proved
38 meters.

39 (4) The lessee must maintain, for a period of five (5) years, and make
40 available to the lessor upon request, copies of all documents, records or
41 reports confirming the gross production, disposition and market value in-
42 cluding gas meter readings, pipeline receipts, gas line receipts and other
43 checks or memoranda of the amount produced and put into pipelines, tanks, or
44 pools and gas lines or gas storage, and any other reports or records that the
45 lessor may require to verify the gross production, disposition and market
46 value.

47 (5) Any person who purposefully and knowingly violates this section is
48 guilty of a misdemeanor and, upon conviction, shall be subject to a fine of

1 not more than five thousand dollars (\$5,000) or imprisonment for a term not
2 exceeding twelve (12) months, or to both such fine and imprisonment.

3 SECTION 26. That Chapter 3, Title 47, Idaho Code, be, and the same is
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
5 ignated as Section 47-333, Idaho Code, and to read as follows:

6 47-333. ACTION FOR ACCOUNTING FOR ROYALTY. (1) Whenever an owner of a
7 royalty interest makes a written demand for an accounting of the oil and gas
8 produced and makes written demand for delivery or payment of his royalty as
9 may then be due upon the person or persons obligated for the delivery or pay-
10 ment of the royalty, and the obligated persons then fail to make the account-
11 ing demanded and the payment or delivery of the royalty due within a period
12 of sixty (60) days following the date upon which the demand is made, then the
13 royalty owner may file an action in the district court of the county wherein
14 the lands are located to compel the accounting demanded and to recover the
15 payment or delivery of the royalty due against the person or persons obli-
16 gated.

17 (2) In such an action, the prevailing party or parties shall be entitled
18 to reasonable attorney's fees to be allowed by the court together with the
19 costs allowed to a prevailing party, pursuant to section 12-120, Idaho Code.

20 (3) The remedies under this section are not exclusive and do not abro-
21 gate any right or remedy under other laws of this state.

22 SECTION 27. That Chapter 3, Title 47, Idaho Code, be, and the same is
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
24 ignated as Section 47-334, Idaho Code, and to read as follows:

25 47-334. USE OF SURFACE LAND BY OWNER OR OPERATOR. (1) For the purposes
26 of this section, the following definitions shall apply:

27 (a) "Surface land" means land upon which oil or gas operations are con-
28 ducted.

29 (b) "Surface landowner" means a person who owns all or part of the sur-
30 face land as shown by the records of the county in which the surface land
31 is located. Surface landowner does not include the surface landowner's
32 lessee, renter, tenant or other contractually related person.

33 (c) "Surface landowner's property" means a surface landowner's surface
34 land, crops on the surface land and existing improvements on the surface
35 land.

36 (d) "Surface use agreement" means an agreement between an owner or
37 operator and a surface landowner addressing the use and reclamation of
38 surface land owned by the surface landowner and compensation for damage
39 to the surface land caused by oil or gas operations that result in loss
40 of the surface landowner's crops on the surface land, loss of value of
41 existing improvements owned by the surface landowner on the surface
42 land and permanent damage to the surface land.

43 (2) An owner or operator may:

44 (a) Enter onto surface land under which the owner or operator holds
45 rights to conduct oil or gas operations; and

46 (b) Use the surface land:

- 1 (i) To the extent reasonably necessary to conduct oil or gas oper-
2 ations; and
3 (ii) Consistent with allowing the surface landowner the great-
4 est possible use of the surface landowner's property, to the ex-
5 tent that the surface landowner's use does not interfere with the
6 owner's or operator's oil or gas operations.
- 7 (3) Except as is reasonably necessary to conduct oil or gas operations,
8 an owner or operator shall:
- 9 (a) Mitigate the effects of accessing the surface landowner's surface
10 land;
11 (b) Minimize the interference with the surface landowner's use of the
12 surface landowner's property; and
13 (c) Compensate a surface landowner for unreasonable:
- 14 (i) Loss of a surface landowner's crops on the surface land;
15 (ii) Loss of value to existing improvements owned by a surface
16 landowner on the surface land; and
17 (iii) Permanent damage to the surface land.
- 18 (4) For the purposes of this section, an owner or operator is not re-
19 quired to:
- 20 (a) Obtain location or spacing exceptions from the department or com-
21 mission; or
22 (b) Utilize directional or horizontal drilling techniques that are
23 not:
- 24 (i) Technologically feasible;
25 (ii) Economically practicable; or
26 (iii) Reasonably available.
- 27 (5) The provisions of subsection (2) of this section do not apply to the
28 extent that they conflict with or impair a contractual provision relevant to
29 an owner's or operator's use of surface land for oil or gas operations.
- 30 (6) (a) The provisions of this section do not prevent:
- 31 (i) A person from seeking a remedy allowed by law; or
32 (ii) An owner or operator and a surface landowner from addressing
33 the use of surface land for oil or gas operations through a lease, a
34 surface use agreement or another written contract.
- 35 (b) An agreement described in paragraph (a)(ii) of this subsection
36 shall control:
- 37 (i) The use of surface land for oil or gas operations; and
38 (ii) Compensation for damage to the surface land caused by oil or
39 gas operations.
- 40 (7) A nonbinding mediation may be requested by a surface landowner and
41 an owner or operator by providing written notice to the other party if they
42 are unable to agree on the amount of damages for unreasonable crop loss on
43 the surface land, unreasonable loss of value to existing improvements owned
44 by the surface landowner on the surface land, or unreasonable permanent
45 damage to the surface land. A mediator may be mutually selected by a surface
46 landowner and an owner or operator from a listing of qualified mediators
47 maintained by the department and the Idaho department of agriculture, or a
48 mediator may be selected from any other source. The surface landowner and
49 the owner or operator shall equally share the cost of the mediator's ser-
50 vices. The mediation provisions of this section do not prevent or delay an

1 owner or operator from conducting oil or gas operations in accordance with
2 applicable law.

3 (8) A surface use bond shall be furnished to the department by the owner
4 or operator in accordance with the following provisions:

5 (a) A surface use bond does not apply to surface land where the surface
6 landowner is a party or a successor of a party to:

7 (i) A lease of the underlying privately owned oil or gas;

8 (ii) A surface use agreement applicable to the surface
9 landowner's surface land; or

10 (iii) A contract, waiver or release addressing an owner's or oper-
11 ator's use of the surface landowner's surface land.

12 (b) The surface use bond shall be in the amount of six thousand dollars
13 (\$6,000) per well site and shall be conditioned upon the performance by
14 the owner or operator of the duty to protect a surface landowner against
15 unreasonable loss of crops on surface land, unreasonable loss of value
16 of existing improvements, and unreasonable permanent damage to surface
17 land.

18 (c) The surface use bond shall be furnished to the department on a form
19 designed by the department after good faith negotiation and prior to
20 the approval of the application for a permit to drill. The mediation
21 process identified in this section may commence and is encouraged to be
22 completed. The department may accept a surface use bond in the form of a
23 cash account or a certificate of deposit. Interest will remain within
24 the account. The department may allow the owner or operator, or a sub-
25 sequent owner or operator, to replace an existing surface use bond with
26 another bond that provides sufficient coverage. The surface use bond
27 shall remain in effect by the operator until released by the department.

28 (d) The surface use bond shall be payable to the department for the use
29 and benefit of the surface landowner, subject to this section. The sur-
30 face use bond shall be released to the owner or operator after the de-
31 partment receives sufficient information that:

32 (i) A surface use agreement or other contractual arrangement has
33 been reached;

34 (ii) Final resolution of the judicial appeal process for an action
35 for unreasonable damages has occurred and damages have been paid;
36 or

37 (iii) Plugging and abandonment of the well is completed.

38 (e) The department shall make a reasonable effort to contact the sur-
39 face landowner prior to the department's release of the surface use
40 bond.

41 SECTION 28. That Section 74-108, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 74-108. EXEMPTIONS FROM DISCLOSURE -- ARCHAEOLOGICAL, ENDANGERED
44 SPECIES, LIBRARIES, LICENSING EXAMS. The following records are exempt from
45 disclosure:

46 (1) Records, maps or other records identifying the location of archae-
47 ological or geophysical sites or endangered species, if not already known to
48 the general public.

1 (2) Archaeological and geologic records concerning exploratory
2 drilling, logging, mining and other excavation, when such records are re-
3 quired to be filed by statute for the time provided by statute.

4 (3) Documents and data related to oil or gas production submitted to the
5 department of lands or the oil and gas conservation commission under the pro-
6 visions of chapter 3, title 47, Idaho Code, provided that the records qualify
7 for confidential status under section 47-327, Idaho Code, under the condi-
8 tions and for the time provided by statute.

9 (4) The records of a library which, when examined alone, or when exam-
10 ined with other public records, would reveal the identity of the library pa-
11 tron checking out, requesting, or using an item from a library.

12 (45) The material of a library, museum or archive that has been con-
13 tributed by a private person, to the extent of any limitation that is a condi-
14 tion of the contribution.

15 (56) Test questions, scoring keys, and other data used to administer a
16 licensing examination, employment, academic or other examination or testing
17 procedure before the examination is given if the examination is to be used
18 again. Records establishing procedures for and instructing persons admin-
19 istering, grading or evaluating an examination or testing procedure are in-
20 cluded in this exemption, to the extent that disclosure would create a risk
21 that the result might be affected.

22 (67) Land management plans required for voluntary stewardship agree-
23 ments entered into pursuant to law and written agreements relating to the
24 conservation of all species of sage grouse entered into voluntarily by own-
25 ers or occupiers of land with a soil conservation district.

26 SECTION 29. That Section 42-233, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 42-233. LOW TEMPERATURE GEOTHERMAL RESOURCE. (1) The right to the use
29 of low temperature geothermal resources of this state shall be acquired by
30 appropriation, except as provided in subsection (2) of this section. The
31 appropriation may be perfected by means of the application, permit and li-
32 cense procedure as provided in this chapter for ground water, provided that
33 low temperature geothermal resources shall be utilized primarily for heat
34 value and secondarily for the value as water. Usage of a low temperature
35 geothermal resource primarily for reasons other than heat value is not a ben-
36 efiticial use of the resource, unless the director of the department of water
37 resources exempts the proposed use. The director may exempt a proposed use
38 if the director finds that the proposed use satisfies the following crite-
39 ria: (i) there is no feasible alternative use of the resource; (ii) there is
40 no economically viable source of water having a bottom hole temperature of
41 eighty-five (85) degrees or less in a well available; and (iii) the exemption
42 is in the public interest.

43 (2) The use of low temperature geothermal resources for the develop-
44 ment and operation of oil and gas wells permitted under section 47-~~320~~316,
45 Idaho Code, shall not be subject to the provisions of this chapter. How-
46 ever, the director of the department of water resources may initiate a con-
47 tested case in accordance with the provisions of chapter 52, title 67, Idaho
48 Code, and the rules of procedure promulgated by the department, if the de-
49 partment has reason to believe that an oil and gas well will cause, is caus-

1 ing or has caused, significant negative impacts to pressure, temperature,
2 quality necessary for beneficial use or quantity of water available to wa-
3 ter rights existing at the time of the development of the oil and gas well or
4 to a water resource that can be beneficially used. The evidence of causation
5 must come from the department or be credible information from a water right
6 or a geothermal resource permit holder existing at the time of the develop-
7 ment of the oil and gas well. It shall be the burden of the entity operating
8 the oil and gas well to establish that it will not cause, is not causing and
9 has not caused significant negative impacts to pressure, temperature, qual-
10 ity necessary for beneficial use or quantity of water available to existing
11 water rights existing at the time of the development of the oil and gas well
12 or to a water resource that can be beneficially used. If the director deter-
13 mines that the well will cause, is causing or has caused significant nega-
14 tive impacts to pressure, temperature, quality necessary for beneficial use
15 or quantity of water available to a water right existing at the time of the
16 development of the oil and gas well or to a water resource that can be benefi-
17 cially used, the director may order the operator to take measures to mitigate
18 those impacts.

19 (3) Any owner of a well who engages in the drilling, redrilling, mod-
20 ifying or deepening of any low temperature geothermal well shall file with
21 the director of the department of water resources a surety bond or cash bond
22 in the penal sum of not less than five thousand dollars (\$5,000) or more than
23 twenty thousand dollars (\$20,000) as determined by the director of the de-
24 partment of water resources based on the temperature, depth and pressure of
25 the resource, the size and depth of the well, and any other relevant factors.
26 The surety or cash bond shall be conditioned upon the proper compliance with
27 the provisions of this chapter and chapter 40, title 42, Idaho Code, and
28 rules and regulations promulgated pursuant thereto. The bond shall remain
29 in effect for one (1) year following completion of drilling, redrilling,
30 modifying or deepening of the well or until released in writing by the direc-
31 tor, whichever occurs first.

32 (4) All permits, licenses, decreed rights and valid claims to a right
33 to the use of ground water which would be classified as a low temperature
34 geothermal resource having a priority date prior to July 1, 1987, remain
35 valid and the bond provisions of subsection (3) of this section are not ap-
36 plicable unless the well from which the right diverts water is modified or
37 deepened. The provisions of this section shall not be applicable to all
38 permits, licenses and rights to the use of geothermal resources as defined in
39 chapter 40, title 42, Idaho Code, which would be classified as a low temper-
40 ature geothermal resource under this section, issued or proclaimed prior to
41 July 1, 1987, and the bond provisions of subsection (3) of this section are
42 not applicable to such wells.

43 SECTION 30. That Section 42-4003, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 42-4003. PERMITS -- APPLICATION -- FEE -- EXCEPTIONS. (1) Any person
46 who, as owner or operator, proposes to construct a well or to alter a well or
47 to construct or to alter an injection well shall first apply to the director
48 for a geothermal resource well permit, except as provided in subsection (2)
49 of this section.

1 (2) The use of ground water classified as a geothermal resource or mate-
2 rial medium for the development and operation of oil and gas wells permitted
3 under section 47-~~320~~316, Idaho Code, shall not be subject to the provisions
4 of this chapter. However, the director of the department of water resources
5 may initiate a contested case in accordance with the provisions of chapter
6 52, title 67, Idaho Code, and the rules of procedure promulgated by the de-
7 partment, if the department has reason to believe that an oil and gas well
8 will cause, is causing or has caused, significant negative impacts to pres-
9 sure, temperature, quality necessary for beneficial use or quantity of water
10 available to water rights existing at the time of the development of the oil
11 and gas well or to a geothermal resource that can be beneficially used. The
12 evidence of causation must come from the department or be credible informa-
13 tion from a water right holder or a geothermal resource permit holder exist-
14 ing at the time of the development of the oil and gas well. It shall be the
15 burden of the entity operating the oil and gas well to establish that it will
16 not cause, is not causing and has not caused significant negative impacts to
17 pressure, temperature, quality necessary for beneficial use or quantity of
18 water available to existing water rights existing at the time of the devel-
19 opment of the oil and gas well or to geothermal resource that can be benefi-
20 cially used. If the director determines that the well will cause, is causing
21 or has caused significant negative impacts to pressure, temperature, qual-
22 ity necessary for beneficial use or quantity of water available to a water
23 right existing at the time of the development of the oil and gas well or to
24 a geothermal resource that can be beneficially used, the director may order
25 the operator to take measures to mitigate those impacts.

26 (3) Such application required pursuant to subsection (1) of this sec-
27 tion shall set out the following information on a form or forms prescribed by
28 the department:

29 (a) The name of any person making the application; if such person is
30 a partnership, joint-venture, association, or other unincorporated
31 group of corporate or natural persons, the names and places of domicile
32 of each of the constituent persons who have general partnership respon-
33 sibility and authority for and in such unincorporated group of persons;
34 if any person named on a permit application is a corporation, its place
35 of domicile, the names and places of domicile of its principal executive
36 officers, and the names and places of domicile of any person or persons
37 owning a thirty percent (30%) or greater interest, whether legal, bene-
38 ficial, or a combined legal and beneficial interest, in such corporate
39 person; if the applicant is making an application as an agent for any
40 other person, it shall be clearly so stated and any person who is the
41 applicant's principal shall be subject to each and all of the disclosure
42 requirements of this subsection; for purposes of this subsection, the
43 domicile of a corporation is at all of the following:

44 (i) The place of incorporation;

45 (ii) The principal place of business;

46 (iii) The place, by city and state, of the home office, and in any
47 instance where domicile is required to be disclosed all of these
48 places shall be specified.

1 (b) The location of the proposed well; and/or the injection well de-
2 scribed particularly by the quarter-quarter section according to the
3 township and range system of the United States public lands survey.

4 (c) The length, size, type, and thickness of casing proposed to be used
5 in such well and/or such injection well and any other devices or tech-
6 niques to be used in the drilling, operation, and maintenance of such
7 well and/or injection well for the purpose of conserving geothermal re-
8 sources and their availability, avoiding waste and for the protection
9 of other subsurface natural resources.

10 (d) The character and composition of the material expected to be de-
11 rived from such well.

12 (e) The means proposed to be used to contain and manage the material ex-
13 pected to be derived from such well or injected into such injection well
14 in order to avoid unreasonable damage to life, property, or surface and
15 atmospheric natural resources.

16 (f) Whether such well or such injection well is proposed to be con-
17 structed as a part of a program for exploration or for development of an
18 already explored geothermal resource area.

19 (g) Such other information as the director may determine to be neces-
20 sary for the administration of this chapter.

21 (4) Any application for a permit to construct a well which is made pur-
22 suant to this section, if the construction or operation of such well will in-
23 volve the use of water, or if such well may be expected to yield water to be
24 used, for any beneficial purpose, other than as a mineral source, an energy
25 source, or otherwise as a material medium, shall be accompanied by an appli-
26 cation to appropriate the public waters of this state in the form prescribed
27 in chapter 2, title 42, Idaho Code, and by rules adopted pursuant thereto,
28 and such application to appropriate the public waters shall be governed in
29 all respects by that chapter.

30 (5) Any application for a permit made pursuant to this section shall be
31 accompanied by a filing fee of:

32 (a) Two hundred dollars (\$200) if for a well; or

33 (b) One hundred dollars (\$100) for an injection well;

34 and no application shall be accepted and filed by the director until such
35 filing fee has been deposited with him. All moneys received under the pro-
36 visions of this chapter shall be deposited with the state treasurer in the
37 water administration fund as provided in section 42-238a, Idaho Code.

38 (6) No person shall construct or alter a well or an injection well with-
39 out having first secured a permit therefor; provided however, that the di-
40 rector may, by general rule adopted pursuant to chapter 52, title 67, Idaho
41 Code, exempt specific categories of wells or injection wells otherwise em-
42 braced by this chapter upon a finding that the purposes of this chapter do not
43 require that such wells be subject to the permit requirement of this section.

44 (7) Nothing in this chapter shall be construed as affecting any valid,
45 vested water rights for water in use on or before July 1, 1987.

46 (8) The director shall have the authority to and may designate any area
47 of the state a "geothermal area" when the director finds or has reason to be-
48 lieve that such designation is necessary to protect the geothermal resource
49 from waste and to protect other resources of the state from contamination or
50 waste.

1 (9) No person shall drill a well for any purpose to a depth of three
2 thousand (3,000) feet or more below land surface in a designated "geothermal
3 area" without first obtaining a permit under the provisions of this section.
4 Such permit shall be in addition to any permit required by other provisions
5 of law.

6 (10) The owner of any well constructed or being constructed pursuant to
7 section 47-~~320~~316, Idaho Code, who encounters a geothermal resource, and who
8 intends or desires to utilize such resource, shall make application for a
9 geothermal permit as required under this section, provided however, that no
10 additional filing fee shall be required.

11 (11) A geothermal resource shall be utilized primarily for its heat
12 value. Usage of a geothermal resource primarily for some reason other than
13 its heat value shall not be deemed a beneficial use of the resource.

14 SECTION 31. SEVERABILITY. The provisions of this act are hereby de-
15 clared to be severable and if any provision of this act or the application
16 of such provision to any person or circumstance is declared invalid for any
17 reason, such declaration shall not affect the validity of the remaining por-
18 tions of this act.

19 SECTION 32. An emergency existing therefor, which emergency is hereby
20 declared to exist, this act shall be in full force and effect on and after its
21 passage and approval, except for the provisions of Section 6, which shall go
22 into effect on July 1, 2017.