

As Introduced

134th General Assembly  
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H. B. No. 152

Representatives Stewart, Ginter

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A BILL

To amend section 1509.28 of the Revised Code to 1  
revise the law governing unit operation. 2

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 1509.28 of the Revised Code be 3  
amended to read as follows: 4

**Sec. 1509.28.** (A) ~~The~~ As used in this section: 5

(1) "Bonus payment" means a payment for the execution of 6  
an oil and gas lease. 7

(2) "Net acres" means the pro rata undivided interest in 8  
oil and gas in a tract, expressed on an acreage basis and 9  
determined by multiplying an unleased mineral owner's percentage 10  
ownership interest in the oil and gas in a tract by the gross 11  
acreage of the tract. 12

(3) "Net proceeds" means the proceeds received on the sale 13  
of production less any and all taxes and fees levied on or as a 14  
result of the production and less any and all post-production 15  
costs incurred between the wellhead and the point of sale. 16

(4) "Non-operating working interest owner" means a working 17  
interest owner that is not the operator for the unit. 18

(5) "Operational changes" means adjustments, amendments, 19  
or changes to any oil and gas operations, including, but not 20  
limited to, changes related to permitting, pad construction, pad 21  
location, drilling, completions, production, and workovers, 22  
within the unit. 23

(6) "Post-production costs" means all costs and expenses 24  
incurred between the wellhead and the point of sale, including, 25  
without limitation, the costs of any treating, separating, 26  
dehydrating, processing, storing, gathering, transporting, 27  
compressing, and marketing. 28

(7) "Royalty" means a share of production that is free 29  
from the costs of production. 30

(8) "Unit order" means an order providing for unit 31  
operations. 32

(9) "Unleased mineral owner" means an owner of a fee 33  
mineral interest that is free of a lease or other instrument 34  
conveying all or any portion of the working interest in such 35  
rights to another. 36

(10) "Working interest" means an interest in oil or gas by 37  
virtue of a lease, operating agreement, fee title, or otherwise, 38  
including a carried interest, the owner of which, in the absence 39  
of a unit order, would have the right to drill and operate a 40  
well on one or more of the separately owned tracts comprising 41  
the unit and who is obligated to pay, either in cash or out of 42  
production, or otherwise, a portion of the unit expense. 43

(10) "Working interest owner" means a person who owns a 44  
working interest and who is not an unleased mineral owner. 45

(B) (1) An applicant who has obtained the consent of the 46  
owners of at least sixty-five per cent of the land area 47

overlying a pool or a part of a pool may submit an application 48  
for the operation as a unit of the entire pool or part of the 49  
pool to the chief of the division of oil and gas resources 50  
management, ~~upon the chief's own motion or upon application by-~~ 51  
~~the owners of sixty-five per cent of the land area overlying the~~ 52  
~~pool, shall hold a hearing to consider the need for the-~~ 53  
~~operation as a unit of an entire pool or part thereof.~~ In 54  
calculating the sixty-five per cent, an owner's entire interest 55  
in each tract in the proposed unit area, including any divided, 56  
undivided, partial, fee, or other interest in the tract, shall 57  
be included to the fullest extent of that interest. 58

(2) The chief may make a motion, without application, for 59  
the operation as a unit of an entire pool or part of the pool. 60

(C) An application by owners applicant shall be- 61  
accompanied by a include with the application for unit operation 62  
all of the following: 63

(1) A nonrefundable fee of ten thousand dollars and by- 64  
such; 65

(2) If desired by the applicant, a request that the 66  
hearing on the application be held remotely, as provided in 67  
division (D) (3) of this section; 68

(3) If desired by the applicant, a request that any trade 69  
secret, research, development, or commercial information 70  
designated and identified by the applicant be protected from 71  
disclosure; 72

(4) Any additional information as requested by the chief 73  
may request. 74

(D) (1) The chief shall hold a hearing to consider the need 75  
for the operation as a unit of an entire pool or part thereof. 76

Before the hearing, the chief shall notify interest holders 77  
located in the proposed unit of the date of the hearing by 78  
certified mail and by publishing notice twice in a newspaper of 79  
general circulation in the county or counties in which the unit 80  
is proposed to be located. 81

(2) The chief shall hold the hearing not less than thirty 82  
days and not more than sixty days after the date of the chief's 83  
motion under division (B) (2) of this section or the date the 84  
chief received the application for unit operation under division 85  
(B) (1) of this section, as applicable. 86

(3) Notwithstanding section 121.22 of the Revised Code, 87  
and, at the request of an applicant, the chief shall conduct the 88  
hearing electronically by teleconference, video conference, or 89  
any other similar electronic technology. 90

(4) If the applicant made a protection request under 91  
division (C) (3) of this section, the trade secret, research, 92  
development, or commercial information shall not be included in 93  
the public record of the hearing, shall not be disclosed to the 94  
public, and the chief shall order one of the following: 95

(a) The trade secret, research, development, or commercial 96  
information is protected from disclosure and shall not be 97  
disclosed to any person other than the chief; 98

(b) The trade secret, research, development, or commercial 99  
information is partially protected from disclosure and may be 100  
disclosed by the chief only to certain persons or classes of 101  
persons. 102

(E) The chief shall make an order providing for the unit 103  
operation of a pool or part thereof if the chief finds that such 104  
operation is reasonably necessary to increase substantially the 105

ultimate recovery of oil and gas, and the value of the estimated 106  
additional recovery of oil or gas exceeds the estimated 107  
additional cost incident to conducting the operation. The chief 108  
shall issue the unit order not later than thirty days after the 109  
date of the hearing unless the chief denies the application by 110  
order within that thirty days. 111

(F) The unit order shall be upon terms and conditions that 112  
are just and reasonable and shall prescribe a plan for unit 113  
operations that ~~shall include~~ includes all of the following: 114

(1) A description of the unitized area, termed the unit 115  
area; 116

(2) A statement of the nature of the operations 117  
contemplated; 118

(3) An allocation to the separately owned tracts in the 119  
unit area of all the oil and gas that is produced from the unit 120  
area and is saved, being the production that is not used in the 121  
conduct of operations on the unit area or not unavoidably lost. 122  
The allocation shall be in accord with the agreement, if any, of 123  
the interested parties. If there is no such agreement, the chief 124  
shall determine the value, from the evidence introduced at the 125  
hearing, of each separately owned tract in the unit area, 126  
exclusive of physical equipment, for development of oil and gas 127  
by unit operations, and the production allocated to each tract 128  
shall be the proportion that the value of each tract so 129  
determined bears to the value of all tracts in the unit area. 130

(4) A provision for the credits and charges to be made in 131  
the adjustment among the owners in the unit area for their 132  
respective investments in wells, tanks, pumps, machinery, 133  
materials, and equipment contributed to the unit operations; 134

(5) A provision providing how the expenses of unit operations, including capital investment, shall be determined and charged to the separately owned tracts and how the expenses shall be paid;

(6) A provision, ~~if necessary,~~ for carrying ~~or otherwise financing the cost of any person non-operating working interest owner who is unable~~ elects to be carried or who fails to meet the person's the non-operating working interest owner's financial obligations in connection with under the unit, ~~allowing a reasonable interest charge for such service; order,~~ payable out of production and upon terms and conditions determined by the chief to be just and reasonable.

The terms and conditions shall include a non-participation charge in an amount of not less than three hundred per cent of the amount carried, payable out of the non-operating working interest owner's share of production.

(7) A provision for the supervision and conduct of the unit operations, in respect to which each person shall have a vote with a value corresponding to the percentage of the expenses of unit operations chargeable against the interest of that person;

(8) The time when the unit operations shall commence, and the manner in which, and the circumstances under which, the unit operations shall terminate; ~~-. The unit order also shall include provisions authorizing the extension of these times by not less than twelve months and specifying the manner and circumstances under which an extension may be obtained without requiring an additional hearing.~~

(9) ~~Such additional provisions as are found to be~~

~~appropriate for carrying on the unit operations, and for the~~ 164  
~~protection or adjustment of correlative rights. If the unit~~ 165  
~~order addresses the interest owned by an unleased mineral owner,~~ 166  
~~a provision entitling the unleased mineral owner to elect one of~~ 167  
~~the following not later than thirty days after the chief issues~~ 168  
~~the unit order:~~ 169

(a) To lease the unleased mineral owner's interests to the 170  
applicant under just and reasonable terms established at the 171  
hearing, including a royalty equal to one-eighth of the net 172  
proceeds received by the applicant on the sale of production at 173  
the well plus a bonus payment equal to seventy-five per cent of 174  
the current market rate for a bonus payment per acre within the 175  
proposed unit area at the time the application is made or the 176  
date of the chief's motion, as applicable, multiplied by the net 177  
acres contributed to the unit by the unleased mineral owner's 178  
interest; 179

(b) To participate in unit operations as a consenting 180  
party under the terms of the joint operating agreement attached 181  
to the application; 182

(c) To participate in unit operations as a non-consenting 183  
party under the terms of the joint operating agreement attached 184  
to the application, provided, however, that the non- 185  
participation charge applicable to the unleased mineral owner's 186  
interest under the joint operating agreement shall be equal to 187  
three hundred per cent of the carried amounts, payable out of 188  
the unleased mineral owner's share of production. 189

If an unleased mineral owner does not make an election in 190  
the time specified in division (F) (9) of this section, the 191  
unleased mineral owner shall be deemed for all purposes to have 192  
elected the option specified in division (F) (9) (a) of this 193

section. 194

(10) Such additional provisions as are found to be 195  
appropriate for carrying on the unit operations, and for the 196  
protection or adjustment of correlative rights. 197

~~(B)-(G) No unit order of the chief providing for unit~~ 198  
~~operations~~ shall become effective unless and until the plan for 199  
unit operations prescribed by the chief has been approved in 200  
writing by those owners who, under the chief's order, will be 201  
required to pay at least sixty-five per cent of the costs of the 202  
unit operation, and also by the royalty or, with respect to 203  
unleased acreage, fee owners of sixty-five per cent of the 204  
acreage to be included in the unit. If the plan for unit 205  
operations has not been so approved by owners and royalty owners 206  
at the time the unit order providing for unit operations is 207  
made, the chief shall upon application and notice hold such 208  
supplemental hearings as may be required to determine if and 209  
when the plan for unit operations has been so approved. If the 210  
owners and royalty owners, or either, owning the required 211  
percentage of interest in the unit area do not approve the plan 212  
for unit operations within a period of six months from the date 213  
on which the unit order providing for unit operations is made, 214  
the order shall cease to be of force and shall be revoked by the 215  
chief. 216

~~An (H) A unit order providing for unit operations~~ may be 217  
amended by an order made by the chief, in the same manner ~~and~~ 218  
~~subject to the same conditions~~ as an original unit order 219  
~~providing for unit operations~~, provided that: 220

(1) If such an amendment affects only the rights and 221  
interests of the owners, the approval of the amendment by the 222  
royalty owners shall not be required. 223



(2) No such order of amendment shall change the percentage 224  
for allocation of oil and gas as established for any separately 225  
owned tract by the original order, except with the consent of 226  
all persons owning interest in the tract. 227

(3) No such order of amendment shall be required by the 228  
chief for either of the following: 229

(a) A change in the ownership of the interests included in 230  
the unit order when the unit boundaries do not change; 231

(b) Operational changes within the unit. 232

(I) The chief, by an order, may provide for the unit 233  
operation of a pool or a part thereof that embraces a unit area 234  
established by a previous unit order of the chief. Such an 235  
order, in providing for the allocation of unit production, shall 236  
first treat the unit area previously established as a single 237  
tract, and the portion of the unit production so allocated 238  
thereto shall then be allocated among the separately owned 239  
tracts included in the previously established unit area in the 240  
same proportions as those specified in the previous unit order. 241

(J) Oil and gas allocated to a separately owned tract 242  
shall be deemed, for all purposes, to have been actually 243  
produced from the tract, and all operations, including, but not 244  
limited to, the commencement, drilling, operation of, or 245  
production from a well upon any portion of the unit area shall 246  
be deemed for all purposes the conduct of such operations and 247  
production from any lease or contract for lands any portion of 248  
which is included in the unit area. ~~The operations~~ Operations 249  
conducted pursuant to ~~the~~ a unit order of the chief shall 250  
constitute a fulfillment of all the express or implied 251  
~~obligations~~ terms and limitations of each lease or contract 252

covering lands in the unit area, including terms and limitations 253  
concerning the size or shape of a unit, to the extent that 254  
compliance with such ~~obligations cannot be had because of~~ 255  
express or implied terms or limitations would conflict with 256  
activities authorized under the unit order of the chief. 257

~~Oil~~ (K) Except as otherwise provided in the unit order, 258  
oil and gas allocated to any tract, and the proceeds from the 259  
sale thereof, shall be the property and income of the several 260  
persons ~~to whom, or to whose credit, the same are allocated or~~ 261  
~~payable under the order providing for unit operations~~ entitled to 262  
share in that property and income in the same manner, in the 263  
same proportions, and upon the same conditions, as they would 264  
have been entitled to had the order not been made by the chief, 265  
and with the same legal effect. 266

(L) No order of the chief or other contract relating to 267  
the sale or purchase of production from a separately owned tract 268  
shall be terminated by the unit order ~~providing for unit~~ 269  
~~operations,~~ but shall remain in force and apply to oil and gas 270  
allocated to the tract until terminated in accordance with the 271  
provisions thereof. 272

(M) Notwithstanding divisions (A) to (H) of section 273  
1509.73 of the Revised Code and rules adopted under it, the 274  
chief shall issue ~~an~~ a unit order for the unit operation of a 275  
pool or a part of a pool that encompasses a unit area for which 276  
all or a portion of the mineral rights are owned by the 277  
~~department of transportation~~ state. 278

(N) Except to the extent that the parties affected so 279  
agree, no unit order ~~providing for unit operations~~ shall be 280  
construed to result in a transfer of all or any part of the 281  
title of any person to the oil and gas rights in any tract in 282

the unit area. All property, whether real or personal, that may 283  
be acquired for the account of the owners within the unit area 284  
shall be the property of such owners in the proportion that the 285  
expenses of unit operations are charged. 286

(O) Beginning on the effective date of this amendment, the 287  
chief shall not establish any new guidelines to administer and 288  
implement this section other than by rule adopted in accordance 289  
with Chapter 119. of the Revised Code. 290

**Section 2.** That existing section 1509.28 of the Revised 291  
Code is hereby repealed. 292