

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3039

By: Boles of the House

7 and

Taylor of the Senate

8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to oil and gas; amending 52 O.S.
12 2021, Section 87.1, which relates to common source of
13 supply and well spacing and drilling units; allowing
14 drilling of wells within location tolerance areas
15 while spacing applications are pending; allowing the
16 Oklahoma Corporation Commission to issue a permit to
17 drill a well prior to issuance of an order; and
18 declaring an emergency.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 52 O.S. 2021, Section 87.1, is
21 amended to read as follows:

22 Section 87.1 Whenever the production from any common source of
23 supply of oil or natural gas in this state can be obtained only
24 under conditions constituting waste or drainage not compensated by
counterdrainage, then any person having the right to drill into and
produce from such common source of supply may, except as otherwise

1 authorized or in this section provided, take therefrom only such
2 proportion of the oil or natural gas that may be produced therefrom
3 without waste or without such drainage as the productive capacity of
4 the well or wells of any such person considered with the acreage
5 properly assignable to each such well bears to the total productive
6 capacities of the wells in such common source of supply considered
7 with the acreage properly assignable to each well therein.

8 (a) To prevent or to assist in preventing the various types of
9 waste of oil or gas prohibited by statute, or any wastes, or to
10 protect or assist in protecting the correlative rights of interested
11 parties, the Corporation Commission, upon a proper application and
12 notice given as hereinafter provided, and after a hearing as
13 provided in the notice, shall have the power to establish well
14 spacing and drilling units of specified and approximately uniform
15 size and shape covering any common source of supply, or prospective
16 common source of supply, of oil or gas within the State of Oklahoma;
17 provided, that the Commission may authorize the drilling of an
18 additional well or wells on any spacing and drilling unit or units
19 or any portion or portions thereof or may establish, reestablish, or
20 reform well spacing and drilling units of different sizes and shapes
21 when the Commission determines that a common source of supply
22 contains predominantly oil underlying an area or areas and contains
23 predominantly gas underlying a different area or areas; provided
24 further that the units in the predominantly oil area or areas shall

1 be of approximately uniform size and shape, and the units in the
2 predominantly gas area or areas shall be of approximately uniform
3 size and shape, except that the units in the gas area or areas may
4 be of nonuniform size and shape when they adjoin the units in the
5 oil area or areas; provided further that the drilling pattern for
6 such nonuniform units need not be uniform, and provided further that
7 the Commission shall adjust the allowable production within the
8 common source of supply, or any part thereof, and take such other
9 action as may be necessary to protect the rights of interested
10 parties. Any order issued pursuant to the provisions hereof may be
11 entered after a hearing upon the petition of any person owning an
12 interest in the minerals in lands embraced within such common source
13 of supply, or the right to drill a well for oil or gas on the lands
14 embraced within such common source of supply, or on the petition of
15 the Conservation Officer of the State of Oklahoma. When such a
16 petition is filed with the Commission, the Commission shall give at
17 least fifteen (15) days' notice of the hearing to be held upon such
18 petition by one publication, at least fifteen (15) days prior to the
19 hearing, in some newspaper of general circulation published in
20 Oklahoma County, and by one publication, at least fifteen (15) days
21 prior to the date of the hearing, in some newspaper published in the
22 county, or in each county, if there be more than one, in which the
23 lands embraced within the application are situated. Except as to
24 the notice of hearing on such a petition, the procedural

1 requirements of Section 86.1 et seq. of this title shall govern all
2 proceedings and hearings provided for by this section.

3 (b) In case of a spacing unit of one hundred sixty (160) acres
4 or more, no oil and/or gas leasehold interest outside the spacing
5 unit involved may be held by production from the spacing unit more
6 than ninety (90) days beyond expiration of the primary term of the
7 lease.

8 (c) In establishing a well spacing or drilling unit for a
9 common source of supply thereunder, the acreage to be embraced
10 within each unit may include acreage from more than one governmental
11 section, but shall not exceed six hundred forty (640) acres for a
12 gas well plus ten percent (10%) tolerance, unless the unit is a
13 governmental section and the governmental section contains more than
14 six hundred forty (640) acres in which case the unit may comprise
15 the entire section. Provided, however, fractional sections along
16 the state boundary line and within the townships along the boundary
17 where the survey west of the Indian Meridian meets the survey east
18 of the Cimarron Meridian may be spaced with adjoining section unit,
19 and the shape thereof shall be determined by the Commission from the
20 evidence introduced at the hearing, and the following facts, among
21 other things, shall be material: (1) the lands embraced in the
22 actual or prospective common source of supply; (2) the plan of well
23 spacing then being employed or contemplated in the source of supply;
24 (3) the depth at which production from the common source of supply

1 has been or is expected to be found; (4) the nature and character of
2 the producing or prospective producing formation or formations; and
3 (5) any other available geological or scientific data pertaining to
4 the actual or prospective source of supply which may be of probative
5 value to the Commission in determining the proper spacing and well
6 drilling unit therefor, with due and relative allowance for the
7 correlative rights and obligations of the producers and royalty
8 owners interested therein.

9 The order establishing such spacing or drilling units shall set
10 forth: (1) the outside boundaries of the surface area included in
11 such order; (2) the size, form, and shape of the spacing or drilling
12 units so established; (3) the drilling pattern for the area, which
13 shall be uniform except as hereinbefore provided; and (4) the
14 location of the permitted well on each such spacing or drilling
15 unit. To such order shall be attached a plat upon which shall be
16 indicated the foregoing information. Subject to other provisions of
17 Section 86.1 et seq. of this title, the order establishing such
18 spacing or drilling units shall direct that no more than one well
19 shall thereafter be produced from the common source of supply on any
20 unit so established, and that the well permitted on that unit shall
21 be drilled at the location thereon as prescribed by the Commission,
22 with such exception as may be reasonably necessary where it is
23 shown, upon application, notice and hearing in conformity with the
24 procedural requirements of Section 86.1 et seq. of this title, and

1 the Commission finds that any such spacing unit is located on the
2 edge of a pool and adjacent to a producing unit, or for some other
3 reason that to require the drilling of a well at the prescribed
4 location on such spacing unit would be inequitable or unreasonable.
5 Whenever such an exception is granted, the Commission shall adjust
6 the allowable production for the spacing unit and take such other
7 action as may be necessary to protect the rights of interested
8 parties.

9 Except for horizontal spacing units allowed by subsection (f) of
10 this section, any well spacing or drilling unit for a common source
11 of supply thereunder which exceeds six hundred forty (640) acres for
12 a gas well plus ten percent (10%) tolerance or exceeds the total
13 amount of acreage contained in a governmental section, and is not in
14 production or in the process of drilling development on the
15 effective date of this act shall be de-spaced. However, fractional
16 sections along the state boundary line and within the townships
17 along the boundary where the survey west of the Indian Meridian
18 meets the survey east of the Cimarron Meridian may be spaced with
19 adjoining section unit, and the shape thereof shall be determined by
20 the Commission.

21 (d) The Commission shall have jurisdiction upon the filing of a
22 proper application therefor, and upon notice given as provided in
23 subsection (a) of this section, to decrease the size of the well
24 spacing units or to permit additional wells to be drilled within the

1 established units, or to increase the size or modify the shape of
2 the well spacing units, upon proper proof at such hearing that such
3 modification or extension of the order establishing drilling or
4 spacing units will prevent or assist in preventing the various types
5 of wastes prohibited by statute, or any of the wastes, or will
6 protect or assist in protecting the correlative rights of persons
7 interested in the common source of supply, or upon the filing of a
8 proper application therefor to enlarge the area covered by the
9 spacing order, if such proof discloses that the development or the
10 trend of development indicates that such common source of supply
11 underlies an area not covered by the spacing order and such proof
12 discloses that the applicant is an owner within the area or within a
13 drilling and spacing unit contiguous to the area covered by the
14 application. Except in the instance of reservoir dewatering as
15 described herein, the Commission shall not establish well spacing
16 units of more than forty (40) acres in size covering common sources
17 of supply of oil, the top of which lies less than four thousand
18 (4,000) feet below the surface as determined by the original or
19 discovery well in the common source of supply, and the Commission
20 shall not establish well spacing units of more than eighty (80)
21 acres in size covering common sources of supply of oil, the top of
22 which lies less than nine thousand nine hundred ninety (9,990) feet
23 and more than four thousand (4,000) feet below the surface as
24 determined by the original or discovery well in the common source of

1 supply. In the instance of reservoir dewatering to extract oil from
2 reservoirs having initial water saturations at or above fifty
3 percent (50%), the Commission may establish drilling and spacing
4 units not to exceed six hundred forty (640) acres in size.

5 (e) The drilling of any well or wells into any common source of
6 supply for the purpose of producing oil or gas therefrom, after a
7 spacing order has been entered by the Commission covering such
8 common source of supply, at a location other than that fixed by the
9 order is hereby prohibited. The drilling of any well or wells into
10 a common source of supply, covered by a pending spacing application,
11 at a location or within location tolerance areas other than that
12 approved by a special order of the Commission authorizing the
13 drilling of such well is hereby prohibited. The operation of any
14 well drilled in violation of any spacing order so entered is also
15 hereby prohibited. Notwithstanding any provision of this section to
16 the contrary, the Commission, in the exercise of its authority to
17 prevent waste and protect correlative rights, may issue a permit to
18 drill any well for which notice and hearing have occurred for a
19 special order or an order on the merits in any type case prior to
20 the issuance of any such order. Any such permit shall be subject to
21 and conform with the final provisions of any such order when
22 entered. When two or more separately owned tracts of land are
23 embraced within an established spacing unit, or where there are
24 undivided interests separately owned, or both such separately owned

1 tracts and undivided interests embraced within such established
2 spacing unit, the owners thereof may validly pool their interests
3 and develop their lands as a unit. Where, however, such owners have
4 not agreed to pool their interests and where one such separate owner
5 has drilled or proposes to drill a well on the unit to the common
6 source of supply, the Commission, to avoid the drilling of
7 unnecessary wells, or to protect correlative rights, shall, upon a
8 proper application therefor and a hearing thereon, require such
9 owners to pool and develop their lands in the spacing unit as a
10 unit. The applicant shall give all the owners whose addresses are
11 known or could be known through the exercise of due diligence at
12 least fifteen (15) days' notice by mail, return receipt requested.
13 The applicant shall also give notice by one publication, at least
14 fifteen (15) days prior to the hearing, in some newspaper of general
15 circulation published in Oklahoma County, and by one publication, at
16 least fifteen (15) days prior to the date of the hearing, in some
17 newspaper published in the county, or in each county, if there be
18 more than one, in which the lands embraced within the spacing unit
19 are situated. The applicant shall file proof of publication and an
20 affidavit of mailing with the Commission prior to the hearing. All
21 orders requiring such pooling shall be made after notice and
22 hearing, and shall be upon such terms and conditions as are just and
23 reasonable and will afford to the owner of such tract in the unit
24 the opportunity to recover or receive without unnecessary expense

1 the owner's just and fair share of the oil and gas. The portion of
2 the production allocated to the owner of each tract or interests
3 included in a well spacing unit formed by a pooling order shall,
4 when produced, be considered as if produced by such owner from the
5 separately owned tract or interest by a well drilled thereon. Such
6 pooling order of the Commission shall make definite provisions for
7 the payment of cost of the development and operation, which shall be
8 limited to the actual expenditures required for such purpose not in
9 excess of what are reasonable, including a reasonable charge for
10 supervision. In the event of any dispute relative to such costs,
11 the Commission shall determine the proper costs after due notice to
12 interested parties and a hearing thereon. The operator of such
13 unit, in addition to any other right provided by the pooling order
14 or orders of the Commission, shall have a lien on the mineral
15 leasehold estate or rights owned by the other owners therein and
16 upon their shares of the production from such unit to the extent
17 that costs incurred in the development and operation upon the unit
18 are a charge against such interest by order of the Commission or by
19 operation of law. Such liens shall be separable as to each separate
20 owner within such unit, and shall remain liens until the owner or
21 owners drilling or operating the well have been paid the amount due
22 under the terms of the pooling order. The Commission is
23 specifically authorized to provide that the owner or owners
24 drilling, or paying for the drilling, or for the operation of a well

1 for the benefit of all shall be entitled to production from such
2 well which would be received by the owner or owners for whose
3 benefit the well was drilled or operated, after payment of royalty,
4 until the owner or owners drilling or operating the well have been
5 paid the amount due under the terms of the pooling order or order
6 settling such dispute. No part of the production or proceeds
7 accruing to any owner of a separate interest in such unit shall be
8 applied toward payment of any cost properly chargeable to any other
9 interest in the unit.

10 For the purpose of this section, the owner or owners of oil and
11 gas rights in and under an unleased tract of land shall be regarded
12 as a lessee to the extent of a seven-eighths (7/8) interest in and
13 to the rights and a lessor to the extent of the remaining one-eighth
14 (1/8) interest therein, unless and until the owner or owners make an
15 election or are deemed to make an election not to participate under
16 a pooling order issued by the Commission, at which time each such
17 owner shall be considered a lessor, subject to the judicially
18 recognized implied covenant to market found to exist by the courts
19 of this state in oil and gas leases covering lands located in this
20 state, to the extent of the full royalty percentage elected under
21 the pooling order. Should the owners of separate tracts or
22 interests embraced within a spacing unit fail to agree upon a
23 pooling of their interests and the drilling of a well on the unit,
24 and should it be established by final, unappealable judgment of a

1 court of competent jurisdiction that the Commission is without
2 authority to require pooling as provided for herein, then, subject
3 to all other applicable provisions of this act, the owner of each
4 tract or interest embraced within a spacing unit may drill on his or
5 her separately owned tract, and the allowable production therefrom
6 shall be that portion of the allowable for the full spacing unit as
7 the area of such separately owned tract bears to the full spacing
8 unit.

9 In the event a producing well or wells are completed upon a unit
10 where there are, or may thereafter be, two or more separately owned
11 tracts, each royalty interest owner shall share in all production
12 from the well or wells drilled within the unit, or in the gas well
13 rental provided for in the lease covering such separately owned
14 tract or interest in lieu of the customary fixed royalty, to the
15 extent of such royalty interest owner's interest in the unit. Each
16 royalty interest owner's interest in the unit shall be defined as
17 the percentage of royalty owned in each separate tract by the
18 royalty owner, multiplied by the proportion that the acreage in each
19 separately owned tract or interest bears to the entire acreage of
20 the unit.

21 (f) Notwithstanding any provision of this title to the
22 contrary, the Corporation Commission shall have jurisdiction upon
23 the filing of a proper application therefor, and upon notice given
24 as provided in subsection (a) of this section, to establish spacing

1 rules for horizontally drilled oil or gas wells whereby horizontally
2 drilled oil or gas wells may have well spacing units established of
3 up to one thousand two hundred eighty (1,280) acres plus tolerances
4 and variances as allowed pursuant to subsection (c) of this section.
5 For purposes of this subsection a "horizontally drilled oil or gas
6 well" shall mean an oil or gas well drilled, completed or
7 recompleted in a manner in which the horizontal component of the
8 completion interval in the geological formation exceeds the vertical
9 component thereof and which horizontal component extends a minimum
10 of one hundred fifty (150) feet in the formation. The Corporation
11 Commission shall promulgate rules necessary for the proper
12 administration of this subsection. For the creation and
13 continuation of any horizontal spacing unit pursuant to this
14 subsection that exceeds six hundred forty (640) acres plus
15 tolerances and variances as allowed pursuant to subsection (c) of
16 this section:

17 (1) absent a showing of reasonable cause, the unit shall
18 include all lands within each governmental section to be included in
19 the horizontal spacing unit;

20 (2) the applicant or applicants requesting the Commission to
21 form the horizontal spacing unit must be the owner of an interest in
22 the oil, gas and other minerals in each of the governmental sections
23 to be included in the horizontal spacing unit;

24

1 (3) the applicant or applicants requesting the Commission to
2 form a horizontal spacing unit must include in the application the
3 basis for requesting a spacing unit size greater than six hundred
4 forty (640) acres plus tolerances and variances as allowed pursuant
5 to subsection (c) of this section. Absent a showing of reasonable
6 cause, the contemplated horizontal lateral length for the initial
7 unit well in the horizontal spacing unit shall be at least seven
8 thousand five hundred (7,500) feet. If the lateral length of the
9 initial horizontal well does not actually measure a minimum of seven
10 thousand five hundred (7,500) feet, the Commission shall require the
11 applicant to show cause as to why such spacing order should not be
12 modified, superseded or vacated under the circumstances; and

13 (4) absent a showing of reasonable cause, the drilling of a
14 multiunit horizontal well pursuant to Section 87.8 of this title
15 shall not be available as the initial unit well for a horizontal
16 spacing unit unless the contemplated completed portion of the
17 lateral for said well is to exceed ten thousand five hundred sixty
18 (10,560) feet.

19 (g) A horizontal spacing unit may be established for a common
20 source of supply for which there are already established non-
21 horizontal drilling and spacing units. A horizontal spacing unit
22 formed under subsection (f) of this section may exist concurrently
23 with any previously formed nonhorizontal drilling and spacing unit,
24 or any portion thereof, such that each concurrently existing unit

1 may be separately developed with a well drilled into, completed in
2 and hydrocarbons produced from the same common source of supply in
3 each such concurrently existing unit, with production from each such
4 well to be governed by and allocated pursuant to the applicable
5 unit. Subject to all of the provisions of this section, a pooling
6 order for a horizontal spacing unit which overlies an existing,
7 producing nonhorizontal drilling and spacing unit, shall provide
8 that, if a working interest owner in such producing nonhorizontal
9 drilling and spacing unit does not agree to develop the horizontal
10 spacing unit, the owner shall relinquish its nonparticipating
11 working interest in the horizontal spacing unit while retaining all
12 other rights, including the right to concurrently develop the
13 producing nonhorizontal unit.

14 (h) Notwithstanding anything in this title or a pooling order
15 to the contrary, each party owning a right to participate in
16 development of a horizontal well described in this subsection with a
17 vested interest as to which there is production in the geographical
18 area of the spacing unit or spacing units for a proposed horizontal
19 well which is drilled after the effective date of this act pursuant
20 to a pooling order, whether the pooling order was issued before or
21 after the effective date of this act, shall be afforded separate
22 elections as set forth below, subject to the following, provided;
23 however, a geographic area in which there is no existing producing
24 unit as of the date of the filing of the application for the

1 governing pooling order and which is initially developed pursuant to
2 a multiunit horizontal well authorized under Section 87.8 of this
3 title, or a horizontal spacing unit which contains more than six
4 hundred forty (640) acres plus tolerances and variances as allowed
5 for pursuant to subsection (c) of this section shall not be
6 considered to contain existing production for purposes of this
7 subsection, unless the geographical area of any spacing unit covered
8 by the governing pooling order: is overlain by a horizontal spacing
9 unit greater than six hundred forty (640) acres plus tolerances and
10 variances as allowed for pursuant to subsection (c) of this section
11 which is not subject to said pooling order; has a multiunit well
12 drilled pursuant to Section 87.8 of this title which includes a
13 horizontal spacing unit which contains more than six hundred forty
14 (640) acres plus tolerances and variances as allowed for pursuant to
15 subsection (c) of this section which is subject to said pooling
16 order; or has a multiunit well drilled pursuant to Section 87.8 of
17 this title for a combination of units different than drilled by the
18 initial multiunit well pursuant to said pooling order:

19 (1) as to a multiunit horizontal well authorized under Section
20 87.8 of this title, each party owning a right to participate in
21 development of the proposed multiunit horizontal well with a vested
22 interest as to which there is existing production in the
23 geographical area of the spacing unit for the proposed multiunit
24 well shall be allowed, and as to the extent of their development

1 rights as to which there is existing production, an election as to
2 the targeted reservoir or targeted reservoirs covered by each
3 pooling order for such proposed multiunit horizontal well described
4 above, unless otherwise agreed to or waived in writing after the
5 effective date of this act. If said multiunit well is drilled in
6 accordance with the pooling order, the relinquished rights of an
7 owner who elects or is deemed to have elected not to participate
8 with all or any part of that owner's interest in the multiunit
9 horizontal well shall be limited to only the owner's
10 nonparticipating working interest in the common source or common
11 sources of supply within the targeted reservoir or targeted
12 reservoirs covered by said election which are actually horizontally
13 drilled and completed by said well. The owner shall retain all
14 other rights, including all rights in any existing wellbores in
15 which the owner has participated;

16 (2) as to a horizontal well authorized by the Commission for a
17 horizontal spacing unit created under subsection (f) of this
18 section, if the horizontal spacing unit contains more than six
19 hundred forty (640) acres plus tolerances and variances as allowed
20 for pursuant to subsection (c) of this section, or is comprised of
21 more than one governmental section, each party owning a right to
22 participate in development of the proposed horizontal well with a
23 vested interest as to which there is existing production in the
24 geographical area of the spacing unit for the proposed horizontal

1 well shall be allowed, and as to the extent of their development
2 rights as to which there is existing production, a separate election
3 as to each common source of supply or common sources of supply
4 covered by the pooling order for a proposed horizontal well
5 described above, unless otherwise agreed to or waived in writing
6 after the effective date of this act. If said horizontal well is
7 drilled in accordance with the pooling order, the relinquished
8 rights of an owner who elects or is deemed to have elected not to
9 participate with all or any part of that owner's interest in the
10 horizontal well shall be limited to only the owner's
11 nonparticipating working interest in the common source or common
12 sources of supply covered by said election which are actually
13 horizontally drilled and completed by said well. The owner shall
14 retain all other rights, including any rights in all existing
15 wellbores in which the owner has participated;

16 (3) as to any well which is subject to a pooling order which
17 was entered prior to the effective date of this act, in order to be
18 entitled to the rights and benefits of this subsection, the owner
19 must have been vested with the right to participate in the subject
20 well as of the effective date of this act;

21 (4) any relinquishment of rights under this subsection shall be
22 pursuant to the governing pooling order and at such fair value as
23 determined by the Commission; and

24

1 (5) the provisions of subsections (g) and (h) of this section
2 shall supplement each affected pooling order as to development of
3 the affected spacing unit by use of horizontal wells from and after
4 the effective date of this act.

5 SECTION 2. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9
10 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND NATURAL RESOURCES,
11 dated 03/02/2022 - DO PASS, As Amended and Coauthored.

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