

CHAPTER 146.

[H. B. 143.]

OIL AND GAS CONSERVATION ACT.

AN ACT relating to the conservation of oil and gas; creating an oil and gas conservation committee; defining its powers and duties; authorizing certain practices, and defining certain crimes.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. It is hereby declared to be in the public interest to foster, encourage, and promote the development, production, and utilization of oil and gas in the state in such manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such manner as to assure that the maximum economic recovery of oil and gas may be obtained and the rights of owners thereof fully protected; and to encourage, authorize, and provide for cycling, recycling, pressure maintenance and secondary recovery operations in order that the maximum economic recovery of oil and gas may be obtained to the end that land owners, royalty owners, producers, and the general public may realize and enjoy the greatest possible benefits from these vital resources.

Declaration
of public
interest.

SEC. 2. This act shall be known as the "Oil and Gas Conservation Act."

Short title.

SEC. 3. For the purposes of this act, unless the text otherwise requires, the following terms shall have the following meanings:

Definitions.

(1) "Waste" in addition to its ordinary meaning, shall mean "physical waste" as that term is generally understood in the petroleum industry, and shall include:

"Waste."

(a) The inefficient, excessive or improper use of, or unnecessary dissipation of, reservoir energy; and the locating, spacing, drilling, equipping, operat-

ing or producing of any oil or gas well in a manner which results, or tends to result in reducing the quantity of oil or gas to be recovered from any pool in this state under operations conducted in accordance with good oil field engineering practices;

(b) The inefficient above ground storage of oil; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas;

(c) Producing oil or gas in such manner as to cause unnecessary water channeling, or coning;

(d) The operation of an oil well with an inefficient gas-oil ratio;

(e) The drowning with water of any pool or part thereof capable of producing oil or gas, except insofar as, and to the extent, authorized by the committee hereunder;

(f) Underground waste;

(g) The creation of unnecessary fire hazards;

(h) The escape into the open air, from a well producing oil or gas, of gas in excess of the amount which is reasonably necessary in the efficient development or production of the well;

(i) The use of gas for the manufacture of carbon black, except as provided in section 15 hereof; and

(j) Production of oil and gas in excess of the reasonable market demand.

"Oil."

(2) "Oil" shall mean crude petroleum oil, and any other hydrocarbons regardless of gravity, which are produced at the well in liquid form by ordinary production methods or which are the result of condensation of gaseous hydrocarbons before or after they leave the reservoir, other than gas produced in association with oil and commonly known as wet gas.

"Gas."

(3) "Gas" shall mean all natural gas and other fluid or gaseous hydrocarbons not defined as oil in

subsection (2) above, including wet gas, dry gas and residue gas as those terms are generally understood in the petroleum industry.

(4) "Pool" shall mean an underground reservoir proven to contain a common accumulation of oil or gas, or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool" as herein used. "Pool."

(5) "Field" shall mean the general area which is underlaid by at least one pool and shall include the underground reservoir or reservoirs containing oil or gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools. "Field."

(6) "Lessee" shall mean the lessee under an oil and gas lease, or the owner of any land or mineral rights who conducts or carries on any oil and gas development, exploration and operation thereon, or any person so operating for himself or others. "Lessee."

(7) "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or representative of any kind. "Person."

SEC. 4. There is hereby created and established an oil and gas conservation committee, which shall consist of the governor, the land commissioner, and the state auditor together with the director of conservation and development and the state treasurer. The governor shall be the chairman of this committee, and the commissioner of public lands shall be its executive secretary. The members of the committee may act through designated agents or deputies for the purpose of carrying out the provisions of this act. Oil and gas conservation committee created.
Agents or deputies.

SEC. 5. The committee shall hold hearings at such times and places as may be found by the committee to be necessary to carry out its duties. The commit- Hearings.

tee may establish its own rules for the conduct of public hearings.

Employment of personnel.

SEC. 6. The committee shall have the authority and it shall be its duty to employ all personnel necessary to carry out the provisions of this act.

Powers.

SEC. 7. The committee shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it. No person shall be excused from attending and testifying, or from producing books, papers, and records before the committee or a court, or from obedience to the subpoena of the committee or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture: *Provided*, That nothing herein contained shall be construed as requiring any person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before such committee or court for determination.

Self incrimination privilege not applicable.

No person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objection, he may be required to testify or produce evidence, documentary or otherwise before the committee or court, or in obedience to its subpoena: *Provided, however*, That no person testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Limitation.

No person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objection, he may be required to testify or produce evidence, documentary or otherwise before the committee or court, or in obedience to its subpoena: *Provided, however*, That no person testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

No liability as result of producing such evidence.

SEC. 8. In case of failure or refusal on the part of any person to comply with a subpoena issued by the committee or in case of the refusal of any witness to testify as to any matter regarding which he may be interrogated, any superior court in the state, upon the application of the committee, may compel him to comply with such subpoena, and to attend before

Limitation.

Failure to comply.

SEC. 8. In case of failure or refusal on the part of any person to comply with a subpoena issued by the committee or in case of the refusal of any witness to testify as to any matter regarding which he may be interrogated, any superior court in the state, upon the application of the committee, may compel him to comply with such subpoena, and to attend before

May compel obedience.

the committee and produce such records, books, and documents for examination, and to give his testimony and shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify, therein. Contempt.

SEC. 9. The attorney general shall be the attorney for the committee: *Provided*, That in cases of emergency, the committee may call upon the prosecuting attorney of the county where the action is to be brought, or defended, to represent the committee until such time as the attorney general may take charge of the litigation. Attorney general. Emergency.

SEC. 10. It shall be the duty of the committee to administer and enforce the provisions of this act, and all rules, regulations and orders promulgated hereunder, and the committee is hereby vested with jurisdiction, power and authority, over all persons and property, public and private, necessary to enforce effectively such duty. Enforcement. Jurisdiction.

SEC. 11. The committee shall have authority to make such reasonable rules, regulations and orders as may be necessary from time to time for the proper administration and enforcement of this act. Unless otherwise required by law or by this act or by rules of procedure made under this act, the committee may make such rules, regulations and orders, after notice, as the basis therefor. The notice may be given by publication in some newspaper of general circulation in the state in a manner and form which may be prescribed by the committee by general rule. The public hearing shall be at the time and in the manner and at the place prescribed by the committee, and any person having any interest in the subject matter of the hearing shall be entitled to be heard. Rules and regulations. Notice. Hearing.

SEC. 12. Any interested person shall have the right to have the committee call a hearing for the Interested persons.

Petition for hearing.

Action pursuant to hearing.

Rules, orders, notices, etc., open to inspection.

Copies received in evidence.

Drilling of well prohibited until application made and fee paid.

Form of application.

purpose of taking action with respect to any matter within the jurisdiction of the committee by filing a verified written petition therefor, which shall state in substance the matter and reasons for and nature of the action requested. Upon receipt of any such request the committee, if in its judgment a hearing is warranted and justifiable, shall promptly call a hearing thereon, and after such hearing, and with all convenient speed, and in any event within twenty days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate.

SEC. 13. All rules, regulations and orders of the committee, all petitions, copies of all notices and actions with affidavits of posting, mailing or publications pertaining thereto, all findings of fact, and transcripts of all hearings shall be in writing and shall be entered in full by the committee in the permanent official records of the office of the commissioner of public lands and shall be open for inspection at all times during reasonable office hours. A copy of any rule, regulation, order, or other official records of the committee, certified by the executive secretary of the committee, shall be received in evidence in all courts of this state with the same effect as the original. The committee is hereby required to furnish for the public on request all rules, regulations, orders, and amendments thereof.

SEC. 14. Any person desiring or proposing to drill any well in search of oil or gas, before commencing the drilling of any such well, shall notify the committee upon such form as the committee may prescribe, and shall pay to the state treasurer a fee of one hundred dollars for each such permit. The drilling of any well is prohibited until such notice is given and such fee has been paid as herein provided. The committee shall have the authority to prescribe that the said form indicate the exact location

of such well, the name and address of the owner, operator, contractor, driller, and any other person responsible for the conduct of drilling operations, the proposed depth of the well, the elevation of the well above sea level, and such other relevant and reasonable information as the committee may deem necessary or convenient to effectuate the purposes of this act.

SEC. 15. Waste of oil and gas, as defined in this act, is prohibited.

Waste prohibited.

SEC. 16. The use of gas from a well producing gas only, or from a well which is primarily a gas well, for the manufacture of carbon black or similar products predominantly carbon, is declared to constitute waste *prima facie*, and such gas well shall not be used for any such purpose unless it is clearly shown, at a public hearing to be held by the committee, on application of the person desiring to use such gas, that waste would not take place by the use of such gas for the purpose or purposes applied for, and that gas which would otherwise be lost is not available for such purpose or purposes, and that the gas to be used cannot be used for a more beneficial purpose, such as for light or fuel purposes, except at prohibitive cost, and that it would be in the public interest to grant such permit. If the committee finds that the applicant has clearly shown a right to use such gas for the purpose or purposes applied for, it shall issue a permit upon such terms and conditions as may be found necessary in order to permit the use of the gas, and at the same time require compliance with the intent of this section.

Certain manufacture of carbon products declared waste *prima facie*.

Hearing.

Permit.

SEC. 17. The committee has authority, and it shall be its duty, to make such investigations as it may deem proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the committee.

Investigations.

Committee may require:

SEC. 18. The committee has authority to require:

Identification of ownership.

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

Filing of logs, surveys and reports.

(2) The making and filing of well logs, directional surveys, and reports on well locations, drilling, and production;

Operation so as to prevent certain occurrences.

(3) The drilling, casing, operating, and plugging of wells in such manner as to prevent the escape of oil or gas out of one pool into another, the intrusion of water into an oil or gas pool, the pollution of fresh water supplies by oil, gas, or salt water, and to prevent blow-outs, cavings, seepages, and fires;

Bond.

(4) The furnishing of a reasonable bond with good and sufficient surety, conditioned on the performance of the duty to plug each dry or abandoned well;

Efficient ratios.

(5) The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios;

Accurate measurements.

(6) That the production of oil and gas from wells be accurately measured by such means and upon such standards as may be prescribed by the committee, and that every person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas in this state shall keep and maintain within this state complete and accurate records thereof, which records shall be available for examination by the committee or its agents at all reasonable times, and that every such person file with the committee such reports as it may prescribe with respect to such oil or gas; and

Records.

Reports.

Compliance with the law.

(7) Compliance with each and all of the applicable statutes of this state and the rules and regulations of the supervisor of forestry for the prevention of unreasonable loss or damage to timber.

Committee may regulate:

SEC. 19. The committee shall have further authority to regulate:

- (1) The drilling, producing, spacing, and plugging of wells, and all other operations for the production of oil or gas; Operations for production.
- (2) The shooting and chemical treatment of wells; Treatment of wells.
- (3) Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; Ultimate recovery.
- (4) Disposal of salt water and oil field brines; Disposals.
- (5) The storage, processing, and refining of natural gas and oil produced within this state. Storage, refining, processing.

SEC. 20. The committee has authority to limit and to prorate oil or gas produced in this state and to restrict future production of oil and gas from any pool in such amounts as will offset and compensate for any production determined by the committee to be in excess of or in violation of "oil allowable" or "gas allowable" as defined herein. Restrictions on future production.

SEC. 21. The committee also has authority to classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this act. Committee may classify wells.

SEC. 22. When necessary to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the committee shall establish well spacing areas. Well spacing areas when established shall be of uniform size and shape for the entire pool, except that when found to be necessary for any of the purposes above mentioned, the committee is authorized to divide any pool into zones and establish well spacing areas for each zone, which areas may differ in size and shape from those established in any other zone. Well spacing areas.

SEC. 23. The size and the shape of well spacing areas are to be such as will result in the efficient and economical development of the pool as a whole, and the size shall not be smaller than the maximum area Same; size and shape.

that can be efficiently drained by one well, nor greater than forty acres for oil or one hundred sixty acres for gas only.

Order establishing well spacing areas in accordance with plan.

SEC. 24. An order establishing well spacing areas for a pool shall specify the size and shape of each area and the location of the permitted well thereon in accordance with a reasonable uniform spacing plan. Upon application and after hearing, if the committee finds that a well drilled at the prescribed location would not produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, the committee is authorized to enter an order permitting the well to be drilled at a location other than that prescribed by such spacing order; however, the committee shall include in the order suitable provisions to prevent the production from the well spacing area of more than its just and equitable share of the oil and gas in the pool.

Variance in location.

Modification of order; to include additional areas underlaid by pool.

SEC. 25. An order establishing well spacing areas for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the committee from time to time to include additional areas determined to be underlaid by such pool. When the committee determines that it is necessary for the prevention of waste, or to avoid the drilling of unnecessary wells, or to protect correlative rights, an order establishing well spacing areas in a pool may be modified by the committee to increase the size of well spacing areas in the pool or any zone thereof, or to permit the drilling of additional wells on a reasonably uniform plan in the pool, or any zone thereof.

Same; prevention of waste, etc.

Separately owned tracts within one spacing area; voluntary combination.

SEC. 26. When two or more separately owned tracts are embraced within a well spacing area, or when there are separately owned interests in all or a part of the well spacing area, then the owners and lessees thereof may combine their interests for the

development and operation of the well spacing area. In the absence of this voluntary combination, the committee, upon the application of any interested person, shall enter an order combining all interests in the well spacing area for the development and operation thereof. Each such combining order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the well spacing area the opportunity to recover or receive, without unnecessary expense or penalty, his just and equitable share. Operations incident to the drilling of a well upon any portion of a well spacing area covered by a combining order shall be deemed, for all purposes, the conduct of such operations upon each separately owned tract in the well spacing area by the several owners thereof. That portion of the production allocated to each tract included in a well spacing area covered by a combining order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

Combining orders.

Basis.

Operations under.

Production deemed from individual tracts.

SEC. 27. Each such combining order shall make provision for the drilling and operation of a well on the well spacing area, and for the payment of the reasonable actual cost thereof by the owners of interests in the well spacing area, plus a reasonable charge for supervision. In the event of any dispute as to such costs the committee shall determine the proper costs. If one or more of the owners shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then, the owner or owners so drilling or operating shall have a lien on the share of production from the well spacing area accruing to the interest of each of the other owners for the payment of his proportionate share of such expenses. Such lien shall be only against the said share of production, and

Combining orders; required provisions.

Costs.

Drilling for benefit of another.

Lien against production for expenses.

Sale; proceeds applied to expenses.

not against any interest, estate, equity or title of any of the said other owners. All the oil and gas subject to the lien shall be marketed and sold and the proceeds applied in payment of the expenses secured by such lien.

"Wildcat" wells; logs, surveys, and reports on request shall be confidential.

SEC. 28. Whenever the committee shall require the making and filing of well logs, directional surveys or reports on the drilling of, subsurface conditions found in, or reports with respect to the substance produced, or capable of being produced from, a "wildcat" or "exploratory" well, as those terms are used in the petroleum industry, such logs, surveys, reports or information shall be kept confidential by the committee for a period of one year, if at the time of filing such logs, surveys, reports or other information, the owner, lessee, or operator of such well requests that such information be kept confidential: *Provided, however,* That the committee shall have the right to divulge or use such information in a public hearing or suit when it is necessary for the enforcement of the provisions of this act or any rule, regulation or order made hereunder.

Information may be used, when.

Oil; limitation of production.

SEC. 29. Whenever the total amount of oil which all of the pools in this state can currently produce in accordance with good operating practices, exceeds the amount reasonably required to meet the reasonable market demand, the committee shall limit the oil which may be currently produced in this state to an amount, designated the "oil allowable." The committee shall then prorate this "oil allowable" among the pools on a reasonable basis, avoiding undue discrimination among the pools, and so that waste will be prevented. In determining the "oil allowable," and in prorating such "oil allowable" among the pools in the state, the committee shall take into account the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil and gas, and separate needs for

"Oil allowable."

Prorated.

"Oil allowable"; standards.

oil of particular kinds or qualities, and shall formulate rules setting forth standards or a program for the determination of the "oil allowable," and shall prorate the "oil allowable" in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or program shall be applied to such pools or areas so that as far as practicable a uniform program will be followed: *Provided, however,* That if the amount prorated to a pool as its share of the "oil allowable" is in excess of the amount which the pool can efficiently produce currently, then the committee shall prorate to such pool the maximum amount which can be efficiently produced currently without waste.

Amount prorated not to exceed maximum pool production.

SEC. 30. The committee shall not be required to determine the reasonable market demand applicable to any single pool of oil except in relation to all pools producing oil of similar kind and quality and in relation to the reasonable market demand. The committee shall prorate the "allowable" in such manner as will prevent undue discrimination against any pool or area in favor of another or others resulting from selective buying or nomination by purchasers.

Reasonable market demand; determination of.

Proration; discrimination to be prevented.

SEC. 31. Whenever the total amount of gas which all of the pools in this state can currently produce in accordance with good operating practice exceeds the amount reasonably required to meet the reasonable market demand, the committee shall limit the gas which may be currently produced to an amount, designated as the "gas allowable," which will not exceed the reasonable market demand for gas. The committee shall then prorate the "gas allowable" among the pools on a reasonable basis, avoiding undue discrimination among the pools, and so that waste will be prevented, giving due consideration to

Gas; limitation of production.

"Gas allowable."

Prorated.

Basis.

location of pipe lines, cost of interconnecting such pipe lines, and other pertinent factors, and insofar as applicable, the provisions of section 29 shall be followed in determining the "gas allowable" and in prorating such "gas allowable" among the pools therein: *Provided, however,* That in determining the reasonable market demand for gas as between pools, the committee shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner which will protect the reasonable use of gas energy for oil production and promote the most or maximum efficient recovery of oil from such pools.

Protection
of gas
energy.

Where
total gas
production
unlimited.

Limiting
production
of single
pools.

SEC. 32. Whenever the total amount of gas which may be currently produced from all of the pools in this state has not been limited as hereinabove provided, and the available production from any one pool containing gas only is in excess of the reasonable market demand or available transportation facilities for gas from such pool, the committee shall limit the production of gas from such pool to that amount which does not exceed the reasonable market demand or transportation facilities for gas from such pool.

Single pool;
limited pro-
duction to be
prorated
among
producers.

SEC. 33. Whenever the committee limits the total amount of oil or gas which may be produced from any pool to an amount less than that which the pool could produce if no restrictions were imposed (whether incidental to, or without, a limitation of the total amount of oil which may be produced in the state) the committee shall prorate the allowable production for the pool among the producers in the pool on a reasonable basis, so that each producer will have opportunity to produce or receive his just and equitable share, subject to the reasonable necessities for the prevention of waste, giving where reasonable, under the circumstances, to each pool with small wells of settled production, allowable produc-

tion which prevents the premature abandonment of wells in the pool.

All orders establishing the "oil allowable" and "gas allowable" for this state, and all orders prorating such allowables as herein provided, and any changes thereof, for any month or period shall be issued by the committee on or before the fifteenth day of the month preceding the month for which such orders are to be effective, and such orders shall be immediately published in some newspaper of general circulation printed in Olympia, Washington. No orders establishing such allowables, or prorating such allowables, or any changes thereof, shall be issued without first having a hearing, after notice, as provided in this act: *Provided, however,* When in the judgment of the committee, an emergency requiring immediate action is found to exist, the committee is authorized to issue an emergency order under this section which shall have the same effect and validity as if a hearing with respect to the same had been held after due notice. The emergency order permitted by this subsection shall remain in force no longer than thirty days, and in any event it shall expire when the order made after due notice and hearing with respect to the subject matter of the emergency order becomes effective.

SEC. 34. Whenever the production of oil or gas in this state or any pool therein is limited and the "oil allowable" or "gas allowable" is established and prorated by the committee as provided in section 33, no person shall thereafter produce from any well, pool, lease or property more than the production which is prorated thereto.

SEC. 35. To assist in the development of oil and gas in this state and to further the purposes of this act, the persons owning interests in separate tracts of land, may validly agree to integrate their interests

and manage, operate and develop their land as a unit, subject to the approval of the committee.

Secondary recovery operations.

Order for unit or cooperative development and operation of field or pool.

SEC. 36. When in the judgment of the committee production in any pool or field shall have declined to a point where secondary recovery operations are advisable or necessary, if the lessees or owners of oil and gas rights cannot agree on a unit plan of operation covering the pool or field as a whole, the committee may, after a hearing as hereinafter provided, enter and enforce an order for the unit or cooperative development and operation of a field or pool, in connection with the conduct of re-pressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, or any other method of operation, including water floods.

Construction of R.C.W. 72.28.110.

SEC. 37. Section 72.28.110, R.C.W., as derived from section 14, chapter 161, Laws of 1937, shall be construed so as to conform with sections 35 and 36.

[R.C.W. 78.28.110 is Rem. Supp. § 7797-185c.]

Unit plan; define unit area.

SEC. 38. Any unit plan shall:

Statement of purpose.

Unitized management.

(1) Define and identify the unit area to be included in, and subject to, the unit plan;

(2) Contain a statement of the nature and purpose of the operation contemplated;

(3) Provide for the efficient unitized management or control of the operation of the unit area for the recovery and production of oil and gas from the pool affected. Under such a plan the actual operations within the unit area may be carried on, in whole or in part, by the several lessees of land within the unit area, or may be conducted by some particular lessee of a lease in the unit area, who is designated as unit operator, dependent upon what is most beneficial or expedient. The designation of the unit operator shall be by vote of the lessees of land in the unit area in a manner provided in the unit plan; and

Unit operator.

(4) Provide for the division of interest and formula for the apportionment and allocation, among and to each of the several separately-owned tracts within the unit area, of a fair, equitable and reasonable share of the production from the pool.

Apportionment of production.

SEC. 39. Any unit plan shall provide for the manner in which the development and operation of the unit area shall or may be financed and the basis, terms and conditions on which the cost thereof shall be apportioned among, and assessed against, the tracts and interests made chargeable therewith, including a detailed accounting procedure governing all charges and credits incident to such operations. Upon and subject to such terms and conditions as to time and rate of interest as may be fair to all concerned, reasonable provisions shall be made in the unit plan for carrying or otherwise financing lessees who are unable to meet their financial obligations under the unit plan. The share of such financing properly and proportionately chargeable to any such lessee may become a lien on such lessee's share of production under the unit plan, but in no event shall any such lien be or operate against any interest, estate, equity or title of any such lessee, but only against the said share of production.

Unit plan; provision for financing and apportioning cost of development and operation.

Financing of lessees.

Lien on lessee's share of production.

SEC. 40. Any unit plan shall also:

(1) Provide for the procedure and basis upon which wells, equipment and other properties of the several lessees within the unit area are to be taken over and used, including the method of arriving at the compensation therefor, or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the unit area as of the effective date of the unit plan;

Unit plan; basis for taking over properties.

(2) Provide a fair and equitable plan for the general over-all management and control of the unit area. Each lessee of land within the unit area shall be entitled to representation in the general over-all

Plan for over-all management.

management and control of the unit development and operations. Voting shall be on a fair, equitable, and reasonable basis as provided in such unit plan;

Provisions as to liabilities of lessees.

(3) Provide that the obligations or liabilities of the lessees shall at all times be several and not joint or collective, and in no event shall a lessee be chargeable with, obligated, or liable, directly or indirectly, for more than the amount of expenses apportioned or otherwise assessed or charged to his interest in his separately-owned tract pursuant to the unit plan;

Lessee's share of production.

(4) Provide that each lessee shall own and take in kind his share of the production allocated under the unit plan;

Amendments.

(5) Provide for possible amendments to the unit plan; and

Miscellaneous provisions.

(6) Contain such other provisions as the lessees may deem appropriate for the prevention of waste or protection of all interested parties.

Creation of unit.

SEC. 41. All petitions or proposals for the creation of a unit and approval of a unit plan shall be set for public hearing by the committee, and the date of the first of such hearings shall be not less than thirty days, nor more than sixty days, from the filing of such petition or proposal.

Hearing.

Notice.

SEC. 42. Notice of the time and place of the first of such hearings, and a description of the lands within the unit area, shall be given by publication and in the following manner:

Publication.

(1) Publication on three consecutive days, at least ten days prior to said hearing, in some newspaper of general circulation printed in Olympia, Washington, and by publication on three consecutive days, at least ten days prior to said hearing, in some newspaper of general circulation in the county, or in each county, if there be more than one, in which the lands embraced in the petition are situated; and

Post card notice.

(2) Mailing a postal card notice to the last known post office address as shown by the record

of the county treasurer in the county where the land is located not less than thirty days prior to the date of the first of such hearings to all persons owning interests in the land within the unit area.

SEC. 43. If the hearing cannot be completed on the first day set for such hearing, the committee shall, before adjournment or recess thereof, publicly announce the time and place at which the hearing will be continued, and such announcement will serve as sufficient notice of such continuance without recourse to the form of public notice as provided above in this section.

Hearings
continued.

SEC. 44. Within fifteen days after completion of the public hearings held in accordance with the procedure and requirements herein provided, the committee shall determine from the facts and evidence presented to it:

Basis for
findings.

(1) Whether the unit plan, attached to such petition, or proposal, for the management and operation of a pool is proper, feasible, equitable, reasonably necessary, is for the common good and will result in the general advantage of the lessees and owners of the oil and gas rights within the pool; will prevent waste; will distribute the oil, and gas produced therewith, recovered from the pool, on a fair and equitable basis; and will increase the ultimate recovery of oil from the pool, and that the estimated additional oil to be recovered from the pool under the unit plan will exceed the estimated additional expense, if any, of the conduction of operations under such unit plan;

(2) Whether the unit plan, attached to such petition, or proposal, for the management and operation of a pool containing gas only is proper, feasible, equitable, reasonably necessary, is for the common good, and will result in the general advantage of the lessees and owners of the gas rights within the

pool; will prevent waste; and will distribute the gas recovered from the pool on a fair and equitable basis.

Findings.

If it is the determination of the committee that the unit plan will accomplish the requirements set forth above, it shall make a finding to that effect, and enter an order creating the unit, and designating the date when such unit plan shall become effective.

If it is the determination of the committee that the unit plan will not accomplish the requirements set forth above, it shall make a finding to that effect, reciting, in detail, the considerations upon which such finding is based.

Leases to be conformed to unit plan.

SEC. 45. From and after the date designated by the committee that a unit plan shall be effective, oil and gas leases upon lands within the unit area, or other contracts pertaining to the development thereof, shall be conformed to meet the provisions and requirements of such unit plan, but otherwise to remain in full force and effect. Operations carried on under and in accordance with such unit plan shall be regarded and considered as fulfillment of and compliance with all of the provisions, covenants, and conditions, expressed or implied, of the several oil and gas leases upon lands within the unit area, or other contracts pertaining to the development thereof, insofar as said leases, or other contracts, may relate to the pool or field subject to such unit plan.

Operations under plan deemed compliance with agreements.

Production allocated.

The amount of production apportioned and allocated, pursuant to said unit plan, to each separately-owned tract within the unit area, and only that amount, regardless of the location of the well within the unit area from which it may be produced, and regardless of whether it be more or less than the amount of production from the well, if any, on each separately-owned tract, shall for all intents, uses and purposes be regarded as production from such separately-owned tract, and lessees shall not be obligated to pay royalties or make other payments, required by the

Royalties.

oil and gas leases or other contracts affecting each such separately-owned tract, on production in excess of that amount apportioned and allocated to such separately-owned tract pursuant to the unit plan.

SEC. 46. From and after the date designated by the committee that a unit plan shall become effective, the operation of any well producing from the pool within the area subject to said unit plan, by persons other than persons acting under the authority of the unit plan, or except in the manner and to the extent provided in such unit plan, shall be unlawful and is hereby prohibited.

Deviations
from plan
unlawful.

SEC. 47. In any proceeding hereunder in which an order is entered creating a unit and approving a unit plan, the committee shall retain jurisdiction thereof and of all parties in interest for the purpose of amending the unit plan from time to time whenever by reason of changed conditions or otherwise for good cause shown it is made to appear that such amendment is necessary or proper. Any amendment to a unit plan made pursuant hereto shall be effective prospectively only from and after the date on which the order providing for such amendment shall become final. The procedure for any such amendment, including the filing of a petition, the giving of notice and conduct of hearings, shall be the same as that required for the creation of a unit in the same instance, insofar as applicable.

Jurisdiction
to amend
plan.

Procedure.

SEC. 48. The commissioner of public lands, or other officer or board having the control and management of state land, and the proper board or officer of any political, municipal, or other subdivision or agency of the state having control and management of public lands, may, on behalf of the state or of such political, municipal, or other subdivision or agency thereof, with respect to land and oil and gas rights subject to the control and management of such re-

Officers who
may consent
to participa-
tion on be-
half of State
and its polit-
ical subdivi-
sions.

spective body, board or officer, consent to and participate in any unit plan.

Laws prohibiting restraint of trade not violated by plan.

SEC. 49. No plan for the operation of a field or pool of oil or gas as a unit, either whole or in part, created or approved by the committee hereunder shall be held to violate any of the statutes of this state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

Persons adversely affected by act of committee.

SEC. 50. Any person adversely affected by any rule, regulation or order of the committee may, within thirty days from the effective date of such

Hearing.

rule, regulation or order, apply for a hearing with respect to any matter determined therein; the application shall be granted or denied by the committee within fifteen days from the date the same shall be filed, and if the hearing is not granted within fifteen days it shall be taken as denied. If a hearing is

Time.

granted, the matter shall be set for hearing by the committee within thirty days after the same is submitted. No cause for action arising out of any rule, regulation or order of the committee shall accrue in any court to any party unless such party makes

Application.

application for a hearing as herein provided. Such application shall set forth specifically the ground on which the applicant considers such rule, regulation or order to be unlawful or unreasonable. No party shall, in any court, urge or rely upon any ground not set forth in said application. A rule, regulation, or order made in conformity to a decision resulting from a hearing which abrogates changes or modifies the original rule, regulation or order, shall have the same force and effect as an original.

Committee a party on review.

SEC. 51. In proceedings for review of a rule, regulation or order of the committee, the committee shall be a party to the proceedings and shall have all rights and privileges granted by this act to any other party to such proceedings.

SEC. 52. Within thirty days after the application for a hearing is denied, or if the application is granted, then within thirty days after the rendition of the decision on the hearing, the applicant may apply to the superior court of Thurston County for a review of such rule, regulation, order or decision. The application for review shall be filed in the office of the clerk of the superior court of Thurston County and shall specifically state the grounds for review upon which the applicant relies and shall designate the rule, regulation, order or decision sought to be reviewed. The applicant shall immediately serve a certified copy of said application upon the executive secretary of the committee who shall immediately notify all parties who appeared in the proceedings before the committee that such application for review has been filed.

Superior
court
review.

Grounds.

Service of
application.

SEC. 53. The executive secretary, upon receipt of said copy of the application for review, shall forthwith transmit to the clerk of the superior court in which the application for review has been filed, a certified transcript of all pleadings, applications, proceedings, rules, regulations or orders of the committee and of the evidence heard by the committee on the hearings of the matter or cause: *Provided*, That the parties, with the consent and approval of the committee may stipulate in writing that only certain portions of the record be transcribed. Said proceedings for review shall be for the purpose of having the lawfulness or reasonableness of the rule, regulation, order or decision of the committee, inquired into and determined, and the superior court hearing said cause shall have the power to vacate or set aside such rule, regulation, order or decision on the ground that it is unlawful or unreasonable. After the said transcript is filed, the judge of said superior court may, on his motion, or on application of any parties interested therein, make an order

Transcript
of record
filed.

Inquiry as
to lawfulness
or reasonableness.

Powers of
the Court.

Appeal to Supreme Court.

Procedure.

No additional evidence.

When additional evidence is proper Court may stay proceedings and order committee to hear it.

Transcript of additional evidence.

fixing a time for the filing of the transcript and briefs and shall fix a day for the hearing of the cause. All proceedings under this section shall have precedence in any court in which they may be pending. An appeal shall lie to the supreme court of this state from orders, judgments and decisions made by the superior court. The procedure upon the trial of such proceedings in the superior court and upon appeal to the supreme court of this state shall be the same as in other civil actions, except as herein provided.

SEC. 54. No new or additional evidence may be introduced upon the trial of any proceedings for review under the provisions of this act, but the cause shall be heard upon the questions of fact and law presented by the evidence and exhibits introduced before the committee and certified by it: *Provided*, That if it is shown to the satisfaction of the court that any party to the proceeding has additional material evidence which could not, by the exercise of due diligence, have been produced at the hearing before the committee, or which for some good reason it was prevented from producing at such hearing, or if upon the trial of the proceeding the court shall find the committee has erroneously refused to admit or consider material evidence offered by any party at the hearing before the committee the court may, in its discretion, stay the proceedings and make an order directing the committee to hear and consider such evidence. In such cases, the committee shall immediately hear and consider such evidence and make an order modifying, setting aside or affirming its former rule, regulation, order or decision. A transcript of the additional evidence and the rule, regulation, order or decision of the committee as modified or affirmed, shall immediately be certified and forwarded to the clerk of the superior court in which such proceeding is pending, and said superior court shall on the motion of any interested party,

order the trial to proceed upon the transcript as supplemented, so as to enable the court to properly determine if the rule, regulation, order or decision of the committee as originally made, or as modified, is in any respect unlawful or unreasonable. If the rule, regulation, order or decision of the committee is affirmed by the court it shall continue in force and effect as if no appeal were pending.

Trial on supplemented transcript.

Affirmance.

SEC. 55. The filing or pendency of the application for review provided for in this act shall not in itself stay or suspend the operation of any rule, regulation or order, but the court, in its discretion, may stay or suspend, in whole or in part, the operation of the rule, regulation or order of the committee.

Court may stay orders pending appeal.

SEC. 56. Whenever it shall appear that any person is violating any provisions of this act, or any rule, regulation or order made by the committee hereunder, and if the committee cannot, without litigation, effectively prevent further violation, the committee may bring suit in the name of the state against such person in the superior court in the county of the residence of the defendant, or in the county of the residence of any defendant if there be more than one defendant, or in the county where the violation is alleged to have occurred, to restrain such person from continuing such violation. In such suit the committee may without bond obtain injunctions prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, as the facts may warrant.

Violations.

Suit in the name of the State.

Injunctions without bond.

SEC. 57. In the event the committee should fail to bring suit within thirty days to enjoin any apparent violation of this act, or of any rule, regulation or order made by the committee hereunder, then any person or party in interest adversely affected by such violation, who has requested the committee in writing to sue, may, to prevent any or further viola-

Failure to sue.

Interested party may sue.

tion, bring suit for that purpose in the superior court of any county where the committee could have instituted such suit. If, in such suit, the court should hold that injunctive relief should be granted, then the state shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the state had at all times been the complainant.

State substituted as party.

SEC. 58. Every person who shall violate or knowingly aid and abet the violation of this act or any valid orders, rules and regulations issued thereunder, or who fails to perform any act which is herein made his duty to perform, shall be guilty of a gross misdemeanor.

Violations a gross misdemeanor.

SEC. 59. It is intended that the provisions of this act shall be liberally construed to accomplish the purposes authorized and provided for, or intended to be provided for by this act.

Liberal construction.

SEC. 60. If any part or parts of this act, or the application thereof to any person or circumstances be held to be unconstitutional, such invalidity shall not affect the validity of the remaining portions of this act, or the application thereof to other persons or circumstances. The legislature hereby declares that it would have passed the remaining parts of this act if it had known that said invalid part or parts thereof would be declared unconstitutional.

Partial invalidity.

Passed the House February 20, 1951.

Passed the Senate March 5, 1951.

Approved by the Governor March 15, 1951.