

As Introduced

134th General Assembly
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H. B. No. 152

Representatives Stewart, Ginter

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, or changes to any oil and gas operations, including, but not limited to, changes related to permitting, pad construction, pad location, drilling, completions, production, and workovers, within the unit. 19
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(6) "Post-production costs" means all costs and expenses incurred between the wellhead and the point of sale, including, without limitation, the costs of any treating, separating, dehydrating, processing, storing, gathering, transporting, compressing, and marketing. 24
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(7) "Royalty" means a share of production that is free from the costs of production. 29
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(8) "Unit order" means an order providing for unit operations. 31
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(9) "Unleased mineral owner" means an owner of a fee mineral interest that is free of a lease or other instrument conveying all or any portion of the working interest in such rights to another. 33
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(10) "Working interest" means an interest in oil or gas by virtue of a lease, operating agreement, fee title, or otherwise, including a carried interest, the owner of which, in the absence of a unit order, would have the right to drill and operate a well on one or more of the separately owned tracts comprising the unit and who is obligated to pay, either in cash or out of production, or otherwise, a portion of the unit expense. 37
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(10) "Working interest owner" means a person who owns a working interest and who is not an unleased mineral owner. 44
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(B) (1) An applicant who has obtained the consent of the owners of at least sixty-five per cent of the land area 46
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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