

IN THE SENATE

SENATE BILL NO. 1100

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO OIL AND GAS; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 47-305, IDAHO CODE, TO REQUIRE THAT WHEN PAY-
3 MENT IS MADE TO ANY OWNER OF A ROYALTY INTEREST, CERTAIN INFORMATION
4 SHALL BE INCLUDED ON THE PAYOR'S CHECK STUB OR ON AN ATTACHMENT TO THE
5 FORM OF PAYMENT, TO PROVIDE THAT OTHER INFORMATION MAY BE REQUESTED, TO
6 PROVIDE FOR THE EXPRESSION OF CALCULATION, TO PROVIDE FOR GAS VOLUME
7 MEASUREMENT, TO PROVIDE FOR ROYALTIES DUE FOR CERTAIN PRODUCTION, TO
8 PROVIDE THAT ROYALTIES SHALL NOT BE REDUCED BY COSTS, TO PROVIDE THAT
9 CERTAIN RECORDS SHALL BE MAINTAINED AND MADE AVAILABLE AND TO PROVIDE
10 FOR VIOLATIONS AND PENALTIES; AMENDING SECTION 47-318, IDAHO CODE, TO
11 REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 47-319, IDAHO
12 CODE, TO REVISE CONFIDENTIALITY PROVISIONS, TO PROVIDE FOR DISCLOSURE
13 OF CERTAIN RECORDS, TO PROVIDE THAT CERTAIN RECORDS SHALL BE AVAILABLE
14 TO STATE AGENCIES, TO PROVIDE THAT CONFIDENTIALITY CLAUSES SHALL AP-
15 PLY AND TO PROVIDE FOR CLAIMS OF EXEMPTION; AMENDING CHAPTER 3, TITLE
16 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-319A, IDAHO CODE,
17 TO PROVIDE FOR METERING OF PRODUCTION, TO DEFINE TERMS, TO PROVIDE FOR
18 INVENTORIES, TO PROVIDE FOR CUSTODY TRANSFER METERS, TO PROVIDE FOR
19 THE REGISTRATION OF ALL PERSONS ENGAGED IN METER PROVING OR TESTING,
20 TO PROVIDE FOR QUALIFICATION, TO PROVIDE AN EXEMPTION FROM REGISTRA-
21 TION, TO PROVIDE THAT CERTAIN STANDARDS SHALL APPLY, TO PROVIDE FOR THE
22 TESTING OF METERS AND TO PROVIDE FOR VARIANCES; AMENDING CHAPTER 3,
23 TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-319B, IDAHO
24 CODE, TO PROVIDE REQUIREMENTS REGARDING THE COMMINGLING OF PRODUCTION;
25 AMENDING SECTION 47-321, IDAHO CODE, TO PROVIDE FOR ORDERS REGARDING
26 SPACING UNITS AND TO PROVIDE FOR TEMPORARY SPACING UNITS; AMENDING
27 SECTION 47-322, IDAHO CODE, AS AMENDED IN SECTION 2 OF HOUSE BILL NO.
28 64, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH IDAHO
29 LEGISLATURE, TO REVISE APPLICATION FOR INTEGRATION ORDER PROVISIONS,
30 TO REMOVE AN EXCEPTION TO REQUIREMENTS REGARDING GOOD FAITH EFFORTS TO
31 INFORM UNCOMMITTED OWNERS OF AN INTENT TO DEVELOP MINERAL RESOURCES IN A
32 PROPOSED SPACING UNIT AND TO REVISE CONFIDENTIALITY PROVISIONS; AMEND-
33 ING SECTION 47-324, IDAHO CODE, AS AMENDED IN SECTION 3 OF HOUSE BILL NO.
34 64, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH IDAHO
35 LEGISLATURE, TO REMOVE CERTAIN REDACTION AND MAILING REQUIREMENTS; AND
36 AMENDING SECTION 47-325, IDAHO CODE, TO PROVIDE FOR CIVIL PENALTIES FOR
37 VIOLATION OF ORDERS AND TO REMOVE ARCHAIC VERBIAGE.
38

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

40 SECTION 1. That Chapter 3, Title 47, Idaho Code, be, and the same is
41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
42 ignated as Section 47-305, Idaho Code, and to read as follows:

1 47-305. PAYMENT TO AN OWNER OF A ROYALTY INTEREST -- INFORMATION RE-
2 QUIRED TO BE INCLUDED. (1) When payment is made for oil and gas production to
3 an owner of a royalty interest, the following information shall be included
4 on the payor's check stub or on an attachment to the form of payment:

5 (a) The lease, property or well name, and any lease, property or well
6 identification number from which production is attributed;

7 (b) The month and year of the sales included in the payment;

8 (c) The total barrels of oil, condensate, natural gas liquids or other
9 liquids produced;

10 (d) The total volume of oil or gas sold, as measured upon the standards
11 prescribed by the commission;

12 (e) All gas produced in Mcf attributed to such payment;

13 (f) The average price per unit of oil or gas sold;

14 (g) The total amount of state severance, ad valorem and other produc-
15 tion taxes;

16 (h) An itemized list of any other deductions or adjustments;

17 (i) Deductions attributed individually to any products produced and
18 sold through gas plant operations;

19 (j) Gross market price received for all products produced;

20 (k) The net value of total sales after taxes are deducted;

21 (l) The royalty owner's interest in sales from the lease, property or
22 well expressed as a decimal number;

23 (m) The royalty owner's share of the total value of sales prior to any
24 deductions;

25 (n) The royalty owner's proportionate share of the sales value less the
26 royalty owner's proportionate share of the deductions, as applicable;

27 (o) The name and contact information of each purchaser beginning at the
28 wellhead, any purchase through tanks, pipeline, any purchases between
29 the wellhead and the gas plant and through to the end purchaser of prod-
30 ucts; and

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

36 (2) Upon payee's request, the payor shall provide any other information
37 for such payment.

38 (3) All revenue decimals shall be calculated to at least eight (8) deci-
39 mal places.

40 (4) Gas volumes shall be measured by certified and proven meters.

41 (5) Royalty shall be due on all production from the leased premises ex-
42 cept that consumed for the direct operation of the producing wells and that
43 lost through no fault of the lessee.

44 (6) Where royalties are paid in cash, costs of marketing, transporting
45 and processing oil or gas or natural gas plant liquids or all of them pro-
46 duced shall be borne entirely by the lessee, and such cost shall not reduce
47 the lessor's royalty directly or indirectly.

48 (7) The lessee must maintain, and make available to the lessor upon
49 request, copies of all documents, records or reports confirming the gross
50 production, disposition and market value including gas meter readings,

1 pipeline receipts, gas line receipts and other checks or memoranda of the
 2 amount produced and put into pipelines, tanks or pools and gas lines or gas
 3 storage, and any other reports or records that the lessor may require to ver-
 4 ify the gross production, disposition and market value.

5 (8) Any person who purposefully and knowingly violates subsection (1)
 6 of this section is guilty of a misdemeanor and upon conviction shall be pun-
 7 ished by a fine of not more than one thousand dollars (\$1,000).

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

10 47-318. DEFINITIONS. Unless the context otherwise requires, the terms
 11 defined in this section shall have the following meaning when used in this
 12 act:

13 (a) "Commission" means the oil and gas conservation commission.

14 (b) "Condensate or lease condensate" means the light liquid produced
 15 by the condensation of a vapor or gas either after it leaves the reservoir
 16 or while still in the reservoir hydrocarbons recovered from lease separators
 17 or field facilities at associated and non-associated natural gas wells. It
 18 is mostly comprised of pentanes and heavier hydrocarbons and normally enters
 19 the crude oil stream after production.

20 (c) "Correlative rights" means the opportunity of each owner in a pool
 21 to produce his just and equitable share of oil and gas in a pool without
 22 waste.

23 (d) "Costs of production" means all costs incurred for exploration, de-
 24 velopment, primary or enhanced recovery and abandonment operations includ-
 25 ing, but not limited to, lease acquisition, drilling and completion, pumping
 26 or lifting, recycling, gathering, compressing, pressurizing, heater treat-
 27 ing, dehydrating, separating, storing or transporting the oil to the stor-
 28 age tanks or the gas into the market pipeline. "Costs of production" does not
 29 include the reasonable and actual direct costs associated with transporting
 30 the oil from the storage tanks to market or the gas from the point of entry
 31 into the market pipeline or the processing of gas in a processing plant.

32 (e) "Department" means the Idaho department of lands.

33 (f) "Exploration" means activities related to the various geological
 34 and geophysical methods used to detect and determine the existence and ex-
 35 tent of hydrocarbon deposits.

36 (g) "Field" means the general area underlaid by one (1) or more pools.

37 (h) "Gas" means any petroleum hydrocarbon existing in the gaseous
 38 phase, including condensate because it originally existed in the gaseous
 39 phase.

40 (i) "Market value" means the price at the time of sale, in cash or on
 41 terms reasonably equivalent to cash, for which the oil or gas should bring in
 42 a competitive and open market under all conditions requisite to a fair sale,
 43 the buyer and seller each acting prudently and knowledgeably, and assuming
 44 the price is not affected by undue stimulus from either party. The costs of
 45 marketing, transporting and processing oil and gas produced shall be borne
 46 entirely by the producer, and such cost shall not reduce the producer's tax
 47 directly or indirectly.

48 (j) "Mineral interest" means the right to explore, drill or produce
 49 oil or gas lying beneath the surface of property.

1 (k) "Natural gas plant liquids" means hydrocarbon compounds in raw gas
 2 that are separated as liquids at gas processing plants, fractionating plants
 3 and cycling plants. Natural gas plant liquids obtained include ethane,
 4 liquefied petroleum gases (propane and the butanes), and pentanes plus any
 5 heavier hydrocarbon compounds. Component products may be fractionated or
 6 mixed.

7 (±l) "Oil" or "crude oil" means petroleum oil and other hydrocarbons,
 8 regardless of gravity, that are produced at the well in liquid form by ordi-
 9 nary production methods and are not the result of gas condensation before or
 10 after it leaves the reservoir.

11 (±m) "Oil and gas" means oil or gas or both.

12 (±n) "Operator" means any duly authorized person who is in charge of the
 13 development of a lease, pool, or spacing or unitized area, or the operation
 14 of a producing well.

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

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

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

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

28 (±s) "Reservoir" means a subsurface volume of porous and permeable rock
 29 in which oil or gas has accumulated.

30 (t) "Tract" means an expanse of land representing the surface expres-
 31 sion of the underlying mineral estate. A tract:

32 (i) May be identified by its public land survey system of rectangular
 33 surveys, which subdivides and describes land in the United States in the
 34 public domain and is regulated by the U.S. department of the interior,
 35 bureau of land management;

36 (ii) Is of no particular size;

37 (iii) Shall be a maximum size of six hundred forty (640) acres or one (1)
 38 section, unless otherwise determined by the director of the Idaho de-
 39 partment of lands;

40 (iv) May be irregular in form;

41 (v) Is contiguous;

42 (vi) May lie in more than one (1) township or one (1) section;

43 (vii) May have a boundary defined entirely or in part by natural monu-
 44 ments, such as streams, divides or straight lines connecting prominent
 45 features of topography;

46 (viii) May include the mineral estate beneath navigable waters of the
 47 state; and

48 (ix) May be combined with other tracts to form a lease.

49 (±u) "Uncommitted owner" means one who is not leased or otherwise con-
 50 tractually obligated to the operator.

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

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

20 (≠x) The use of the plural includes the singular, and the use of the sin-
 21 gular includes the plural.

22 SECTION 3. That Section 47-319, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 47-319. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (1) This act
 25 shall apply to all lands located in the state, however owned, including any
 26 lands owned or administered by any government or any agency or political sub-
 27 division thereof, over which the state under its police power, has jurisdic-
 28 tion.

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

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

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

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

42 (a) Identification of ownership of oil or gas wells, producing leases,
 43 tanks, plants, structures, and facilities for the transportation or re-
 44 fining of oil and gas;

45 (b) The taking and preservation of samples and the making and filing
 46 with the commission of true and correct copies of well logs and direc-
 47 tional surveys both in form and content as prescribed by the commission;
 48 ~~provided however, that logs of exploratory or wildcat wells marked con-~~
 49 ~~fidential shall be subject to disclosure according to chapter 1, title~~

1 ~~74, Idaho Code, and shall be kept confidential by the commission for a~~
2 ~~period of one (1) year from the date of filing the log with the commis-~~
3 ~~sion. And provided that the commission may use any well logs and direc-~~
4 ~~tional surveys in any action to enforce the provisions of this chapter~~
5 ~~or any order or rule adopted hereunder. And provided further, that af-~~
6 ~~ter four (4) months from the effective date of this act, the commission~~
7 ~~may require the owner of a well theretofore drilled for oil or gas to~~
8 ~~file within four (4) months of such order a true and correct copy of the~~
9 ~~log or logs of such well;~~

10 (c) The drilling, casing, operation and plugging of wells in such man-
11 ner as to prevent: (i) the escape of oil or gas out of one (1) pool into
12 another; (ii) the detrimental intrusion of water into an oil or gas pool
13 that is avoidable by efficient operations; (iii) the pollution of fresh
14 water supplies by oil, gas, or saltwater; (iv) blow-outs, cavings,
15 seepages, and fires; and (v) waste as hereinabove defined;

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

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

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

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

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

29 (i) That every person who produces oil and gas in the state keep and
30 maintain for a period of five (5) years complete and accurate records
31 of the quantities thereof, which records, or certified copies thereof,
32 shall be available for examination by the commission or its agents at
33 all reasonable times within said period, and that every such person file
34 with the commission such reasonable reports as it may prescribe with re-
35 spect to such oil or gas production. ~~Provided however, that reports of~~
36 ~~oil and gas production shall be kept confidential by the commission and~~
37 ~~shall be exempt from disclosure pursuant to section 74-107, Idaho Code,~~
38 ~~for a period of six (6) months from the date of filing the initial pro-~~
39 ~~duction report for a well with the commission, and thereafter all pro-~~
40 ~~duction reports for a well shall be subject to disclosure pursuant to~~
41 ~~chapter 1, title 74, Idaho Code; and~~

42 (j) The filing of reports of plats with the commission that it may pre-
43 scribe.

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

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

50 (b) The shooting and treatment of wells;

1 (c) The spacing or locating of wells;

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

5 (e) The disposal of saltwater and oil field wastes.

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

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

12 (9) The commission is authorized to share such records or information
13 with the Idaho geological survey. When any such record or information is
14 exempt from disclosure under the Idaho public records act, section 74-101,
15 et seq., Idaho Code, the sharing of such record or information between the
16 oil and gas conservation commission, the Idaho department of lands, and the
17 Idaho geological survey shall not render the shared information subject
18 to disclosure to other persons under the Idaho public records act, section
19 74-101, et seq., Idaho Code. Notwithstanding the foregoing, nothing in this
20 section shall be construed to limit the sharing of such records or infor-
21 mation by the oil and gas commission and the Idaho department of lands with
22 other state agencies, when authorized by law.

23 (10) Notwithstanding any other provisions of chapter 1, title 74, Idaho
24 Code, the following data shall be submitted to the commission within thirty
25 (30) days of execution and shall thereafter be subject to disclosure:

26 (a) All production reports;

27 (b) All well test reports;

28 (c) All well plats;

29 (d) All permits, provided however, seismic data may be redacted on well
30 permits;

31 (e) Gas analysis;

32 (f) Perforated zones and test results;

33 (g) All completion reports and any associated information and docu-
34 ments, affidavits of test, well schematics and logs;

35 (h) All work-over reports and associated information;

36 (i) All drilling reports and associated information and affidavits;

37 (j) Biannual potential tests: one (1) days production with o/c, gas
38 produced, water produced, oil or condensate produced, choke size, flow-
39 ing tubing pressure and any BHP data in interim; and

40 (k) All logs run for any reason; initial logs up to completion.

41 The commission may use any records submitted to it in any action to enforce
42 the provisions of this chapter or any order or rule adopted hereunder.

43 (11) Nothing in this section shall prevent any state entity, such as the
44 Idaho department of lands, the Idaho state tax commission, or any other state
45 agency with a need or right to know from acquiring any data, information,
46 copies of submitted forms, or any other documents filed with the state con-
47 cerning oil and gas. All such records shall be available to any agency upon
48 request to facilitate the protection of correlative rights and prevent the
49 waste of resources.

1 (12) All state agencies, state employees, contract personnel, tempo-
 2 rary personnel and their agents or affiliates shall be governed by the confi-
 3 dentiality clauses enacted and shall be subject to the penalty of law should
 4 any information and/or records protected under this chapter be disclosed.

5 (13) All claims of exemption from disclosure must include a specific ci-
 6 tation to statutory authority under which the department is being requested
 7 to withhold the information from a public records request, and how the infor-
 8 mation meets the standards for being withheld from disclosure. When a por-
 9 tion of a record or a portion of a page in that record is subject to disclosure
 10 and the other portion is subject to a claim that it is a trade secret exempt
 11 from disclosure under chapter 1, title 74, Idaho Code, the person making the
 12 claim must clearly identify the respective portions at the time of submit-
 13 tal.

14 SECTION 4. That Chapter 3, Title 47, Idaho Code, be, and the same is
 15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 16 ignated as Section 47-319A, Idaho Code, and to read as follows:

17 47-319A. OIL AND GAS METERING SYSTEMS. (1) This section is applicable
 18 to all metering stations measuring production from oil and gas wells within
 19 the state of Idaho, including private, state and federal wells. If the pro-
 20 visions of this section differ from federal requirements on measurement of
 21 production from federal oil and gas wells, the federal requirements shall
 22 take precedence.

23 (2) As used in this section, the following terms shall mean:

24 (a) "Allocation meter" means a meter used by the producer to determine
 25 the volume from an individual well before it is commingled with pro-
 26 duction from one (1) or more other wells prior to the custody transfer
 27 point.

28 (b) "Calibration test" means the process or procedure of adjusting an
 29 instrument, such as a gas meter, so its indication or registration is in
 30 satisfactorily close agreement with a reference standard.

31 (c) "Custody transfer meter" means a meter used to transfer oil or gas
 32 from the producer to transporter or purchaser.

33 (d) "Gas gathering meter" means a meter used in the custody transfer of
 34 gas into a gathering system.

35 (e) "Meter factor" means a number obtained by dividing the net volume of
 36 fluid, liquid or gaseous, passed through the meter during proving by the
 37 net volume registered by the meter.

38 (f) "Metering proving" means the procedure required to determine the
 39 relationship between the true volume of a fluid, liquid or gaseous, mea-
 40 sured by a meter and the volume indicated by the meter.

41 (3) The owner of metering equipment shall file with the commission an
 42 inventory of all meters used for custody transfer and allocation of produc-
 43 tion from oil or gas wells, or both. Inventories must be updated on an annual
 44 basis, and filed with the commission on or before the first day of each year,
 45 or they may be updated as frequently as monthly, at the discretion of the op-
 46 erator. Inventories must include the following:

47 (a) Well name and legal description of location or meter location if
 48 different;

49 (b) Well identification number;

- 1 (c) Gas meter information:
2 (i) Make and model;
3 (ii) Differential, static and temperature range;
4 (iii) Orifice tube size (diameter);
5 (iv) Meter station number.
6 (d) Oil meter information:
7 (i) Make and model;
8 (ii) Size;
9 (iii) Meter station number.

10 (4) The commission must be notified of all custody transfer meters
11 placed in service. The owner of the custody transfer equipment shall notify
12 the commission of the date a meter is placed in service, the make and model of
13 the meter, and the meter or station number. The commission must also be no-
14 tified of all metering installations removed from service. The notice must
15 include the date the meter is removed from service and the meter or station
16 number. The required notices must be filed with the commission within thirty
17 (30) days of the installation or removal of a custody transfer meter. All
18 allocation meters must be approved prior to installation and use. The appli-
19 cation for approval shall include the make and model number of the meter, the
20 meter or station number, the well name, its location, and the date the meter
21 will be placed in service. Meter installations for measuring production
22 from oil or gas wells, or both, must be constructed to American petroleum
23 institute or American gas association standards or to meter manufacturer's
24 recommended installation. Meter installations constructed in accordance
25 with American petroleum institute standards, American gas association stan-
26 dards, or other compliance standards in effect at the time of installation
27 shall not automatically be required to retrofit if standards are revised.
28 The commission will review any revised standards, and when deemed necessary
29 will amend the requirements accordingly.

30 (5) All persons engaged in meter proving or testing of oil and gas me-
31 ters must be registered with the commission. The commission shall regis-
32 ter firms that demonstrate qualifications necessary to accurately prove and
33 test meters. The commission shall be granted rulemaking authority to set
34 those qualifications in rule. Those persons involved in oil meter testing,
35 by flowing fluid through the meter into a test tank and then gauging the tank,
36 are exempted from the registration process. However, such persons must no-
37 tify the commission prior to commencement of the test to allow a representa-
38 tive of the commission to witness the testing process. A report of the re-
39 sults of such test shall be filed with the commission within thirty (30) days
40 after the test is completed. Registration must include the following:

- 41 (a) Name and address of company;
42 (b) Name and address of measurement personnel;
43 (c) Qualifications, listing experience or specific training.

44 Any meter tests performed by a person not registered with the commission will
45 not be accepted as a valid test.

46 (6) Oil and gas metering equipment must be proved or tested to Ameri-
47 can petroleum institute or American gas association standards or to the me-
48 ter manufacturer's recommended procedure to establish a meter factor or to
49 ensure measurement accuracy. The owner of a custody transfer meter or allo-

1 cation meter shall notify the commission at least ten (10) days prior to the
2 testing of any meter.

3 (a) Oil allocation meter factors shall be maintained within two percent
4 (2%) of original meter factor. If the factor change between provings or
5 tests is greater than two percent (2%) the meter must be repaired, or ad-
6 justed and tested within forty-eight (48) hours of repair, or replaced.

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

9 (c) All gas meters must be tested with a minimum of a three-point test
10 for static and differential pressure elements and a two-point test for
11 temperature elements. The test reports must include an as-found and
12 as-left test and a detailed report of changes.

13 (d) Test reports must include the following:

14 (i) Producer name;

15 (ii) Lease name;

16 (iii) Pipeline company or company name of test contractor;

17 (iv) Test personnel's name;

18 (v) Station or meter number.

19 (e) Unless required more often by the director, minimum frequency of
20 meter proving or calibration tests are as follows:

21 (i) Oil meters used for custody transfer shall be proved monthly
22 for all measured volumes that exceed two thousand (2,000) barrels
23 per month. For volumes two thousand (2,000) barrels or less per
24 month, meters shall be proved at each two thousand (2,000) barrel
25 interval or more frequently at the discretion of the operator;

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

27 (iii) Semiannually for gas meters used for allocation of produc-
28 tion;

29 (iv) Semiannually for gas meters in gas gathering systems;

30 (v) For meters measuring more than one hundred thousand cubic
31 feet (2831.68 cubic meters) per day on a monthly basis, orifice
32 plates shall be inspected semiannually, and meter tubes shall be
33 inspected at least every five (5) years to ensure continued con-
34 formance with the American gas association meter tube specifica-
35 tions;

36 (vi) For meters measuring one hundred thousand cubic feet
37 (2831.68 cubic meters) per day or less on a monthly basis, orifice
38 plates shall be inspected annually.

39 (f) Meter test reports must be filed within thirty (30) days of comple-
40 tion of proving or calibration tests, unless otherwise approved. Test
41 reports are to be filed on, but not limited to, all meters used for allo-
42 cation measurement of oil or gas and all meters used in crude oil custody
43 transfer.

44 (g) Accuracy of all equipment used to test oil or gas meters must be
45 traceable to the standards of the national institute of standards and
46 technology. The equipment must be certified as accurate either by the
47 manufacturer or an independent testing facility. The certificates of
48 accuracy must be made available upon request. Certification of the
49 equipment must be updated as follows:

- 1 (i) Annually for all equipment used to test the pressure and dif-
2 ferential pressure elements;
3 (ii) Annually for all equipment used to determine temperature;
4 (iii) Biennially for all conventional pipe provers;
5 (iv) Annually for all master meters;
6 (v) Five (5) years for equipment used in orifice tube inspection.

7 (7) Variances from all or part of this section may be granted by the com-
8 mission on the basis of economic necessity providing the variance does not
9 affect measurement accuracy. All requests for variances must be on an appli-
10 cation. A register of variances requested and approved must be maintained by
11 the commission.

12 SECTION 5. That Chapter 3, Title 47, Idaho Code, be, and the same is
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
14 ignated as Section 47-319B, Idaho Code, and to read as follows:

15 47-319B. COMMINGLING OF PRODUCTION. A producer shall not, prior to me-
16 tering, commingle production from two (2) or more oil or gas wells without
17 prior approval of the department after notice and opportunity for hearing.

18 SECTION 6. That Section 47-321, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 47-321. SPACING UNITS. (1) The department shall promptly establish
21 spacing units for each pool except in those pools that have been developed
22 to such an extent that it would be impracticable or unreasonable to estab-
23 lish spacing units at the existing stage of development. All orders the
24 department makes under this section may be initiated upon the department's
25 own motion or upon the application of an interested person after notice and
26 opportunity for hearing.

27 (2) An order establishing spacing units shall specify the size and
28 shape of the units, which shall be such as will, in the opinion of the de-
29 partment, result in the efficient and economical development of the pool as
30 a whole. Any unit established by the department shall be geographic. The
31 geographic boundaries of the unit shall be described in accordance with the
32 public land survey system. Except where circumstances, geologic or other-
33 wise, affecting the orderly development of a pool reasonably require, or as
34 provided in paragraph (b) of this subsection, the size of the spacing units
35 shall not be smaller than the maximum area that can be efficiently and eco-
36 nomically drained by one (1) well; provided:

37 (a) If, at the time of a hearing to establish spacing units, there is
38 not sufficient evidence from which to determine the area that can be ef-
39 ficiently and economically drained by one (1) well, the department may
40 make an order establishing temporary spacing units for the orderly de-
41 velopment of the pool pending the obtaining of the information required
42 to determine what the ultimate permanent spacing should be. If the de-
43 partment does not establish otherwise by order, then:

44 (i) Wells drilled for gas must be located on a temporary spacing
45 unit consisting of approximately three hundred twenty (320) con-
46 tiguous surface acres, or lots equivalent thereto. No other well
47 may be attributed to, completed in, or drilled to the same pool.

1 A gas well must have a minimum setback of six hundred sixty (660)
2 feet from the quarter quarter lines defining the unit.

3 (ii) Wells drilled for oil must be located on a temporary spac-
4 ing unit consisting of an approximately forty (40) acre govern-
5 mental quarter quarter section, or lots equivalent thereto. No
6 other well may be attributed to, completed in, or drilled to the
7 same pool. An oil well must have a minimum setback of three hundred
8 thirty (330) feet from quarter quarter lines.

9 (b) Where the federal agency administering federal minerals that would
10 otherwise be included in a spacing unit has not leased or has failed to
11 offer such federal minerals for lease in accordance with 30 U.S.C. sec-
12 tion 226 and 43 CFR 3120.1-2(a), such federal minerals may be excluded
13 from the unit upon application or upon the department's own determina-
14 tion.

15 (3) Except where circumstances, geologic or otherwise, affecting the
16 orderly development of a pool reasonably require, spacing units shall be of
17 approximately uniform size and shape for the entire pool. The department may
18 establish spacing units of different sizes or shapes for different parts of a
19 pool or may grant exceptions to the size or shape of any spacing unit or units
20 or may change the sizes or shape of one (1) or more existing spacing units.

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

40 (5) An order establishing spacing units for a pool shall cover all lands
41 determined or believed to be underlaid by such pool, and may be modified by
42 the department from time to time to include additional lands determined to be
43 underlaid by such pool or to exclude lands determined not to be underlaid by
44 such pool.

45 (6) An order establishing spacing units may be modified by the depart-
46 ment to change the size or shape of one (1) or more spacing units, or to permit
47 the drilling of additional wells on a reasonably uniform pattern.

48 (7) Upon the filing of an application to establish spacing units, no ad-
49 ditional well shall be commenced for production from the pool until the or-

1 der establishing spacing units has been made, unless the commencement of the
2 well is authorized by order of the department.

3 SECTION 7. That Section 47-322, Idaho Code, as amended in Section 2 of
4 House Bill No. 64, as enacted by the First Regular Session of the Sixty-
5 fourth Idaho Legislature, be, and the same is hereby amended to read as fol-
6 lows:

7 47-322. INTEGRATION OF TRACTS -- ORDERS OF DEPARTMENT. (a) When two
8 (2) or more separately owned tracts are embraced within a spacing unit, or
9 when there are separately owned interests in all or a part of a spacing unit,
10 the interested persons may integrate their tracts or interests for the de-
11 velopment and operation of the spacing unit. In the absence of voluntary
12 integration, the department, upon the application of any owner in that pro-
13 posed spacing unit, shall order integration of all tracts or interests in
14 the spacing unit for drilling of a well or wells, development and operation
15 thereof and for the sharing of production therefrom. The department, as a
16 part of the order establishing a spacing unit or units, may prescribe the
17 terms and conditions upon which the royalty interests in the unit or units
18 shall, in the absence of voluntary agreement, be deemed to be integrated
19 without the necessity of a subsequent separate order integrating the royalty
20 interests. Each such integration order shall be upon terms and conditions
21 that are just and reasonable.

22 (b) All operations, including, but not limited to, the commencement,
23 drilling, or operation of a well upon any portion of a spacing unit for which
24 an integration order has been entered, shall be deemed for all purposes the
25 conduct of such operations upon each separately owned tract in the spacing
26 unit by the several owners thereof. That portion of the production allocated
27 to a separately owned tract included in a spacing unit shall, when produced,
28 be deemed, for all purposes, to have been actually produced from such tract
29 by a well drilled thereon.

30 (c) Each such integration order shall authorize the drilling, equip-
31 ping, and operation, or operation, of a well on the spacing unit; shall
32 designate an operator for the integrated unit; shall prescribe the time and
33 manner in which all the owners in the spacing unit may elect to participate
34 therein; and shall make provision for the payment by all those who elect to
35 participate therein of the reasonable actual cost thereof, plus a reasonable
36 charge for supervision and interest. Each such integration order shall pro-
37 vide for the four (4) following options:

38 (i) Working interest owner. An owner who elects to participate as a
39 working interest owner shall pay the proportionate share of the actual
40 costs of drilling and operating a well allocated to the owner's interest
41 in the spacing unit. Working interest owners who share in the costs of
42 drilling and operating the well are entitled to their respective shares
43 of the production of the well. The operator of the integrated spacing
44 unit and working interest owners shall enter into a joint operating
45 agreement approved by the department in the integration order.

46 (ii) Nonconsenting working interest owner. An owner who refuses to
47 share in the risk and actual costs of drilling and operating the well,
48 but desires to participate as a working interest owner, is a non-
49 consenting working interest owner. Nonconsenting working interest

1 owners are entitled to their respective shares of the production of
2 the well, not to exceed one-eighth (1/8) royalty, until the operator
3 of the integrated spacing unit has recovered up to three hundred per-
4 cent (300%) of the nonconsenting working interest owner's share of the
5 cost of drilling and operating the well under the terms set forth in
6 the integration order. After all the costs have been recovered by the
7 consenting owners in the spacing unit, the nonconsenting owner is enti-
8 tled to his respective shares of the production of the well and shall be
9 liable for his pro rata share of costs as if the nonconsenting owner had
10 originally agreed to pay the costs of drilling and operating the well.
11 The operator of the integrated spacing unit and nonconsenting working
12 interest owners shall enter into a joint operating agreement approved
13 by the department in the integration order.

14 (iii) Leased. An owner may enter into a lease with the operator of the
15 integrated spacing unit under the terms and conditions in the integra-
16 tion order. The owner shall receive no less than one-eighth (1/8) roy-
17 alty. The operator of an integrated spacing unit shall pay a leasing
18 owner the highest bonus payment per acre that the operator paid to an-
19 other owner in the spacing unit prior to the filing of the integration
20 application.

21 (iv) Deemed leased. If an owner fails to make an election within the
22 election period set forth in the integration order, such owner's inter-
23 est will be deemed leased under the terms and conditions in the integra-
24 tion order. The owner shall receive one-eighth (1/8) royalty. The op-
25 erator of an integrated spacing unit shall pay a leasing owner the high-
26 est bonus payment per acre that the operator paid to another owner in the
27 spacing unit prior to the filing of the integration application.

28 (d) An application for an order integrating the tracts or interests in a
29 spacing unit shall substantially contain and be limited to only the follow-
30 ing:

- 31 (i) The applicant's name and address;
- 32 (ii) A description of the spacing unit to be integrated;
- 33 (iii) A geologic statement concerning the likely presence of hydrocar-
34 bons;
- 35 (iv) A statement that the proposed drill site is leased;
- 36 (v) A statement of the proposed operations for the spacing unit, in-
37 cluding the name and address of the proposed operator;
- 38 (vi) A proposed joint operating agreement and a proposed lease form;
- 39 (vii) A list of all uncommitted owners in the spacing unit to be inte-
40 grated under the application, including names and addresses;
- 41 (viii) An affidavit indicating that at least ~~fifty-five~~ seventy percent
42 (5570%) of the mineral interest acres in the spacing unit support the
43 integration application by leasing or participating as a working inter-
44 est owner;
- 45 (ix) An affidavit stating the highest bonus payment paid to a leased
46 owner in the spacing unit being integrated prior to filing the integra-
47 tion application; and
- 48 (x) A resume of efforts documenting the applicant's good faith efforts
49 on at least two (2) separate occasions within a period of time no less
50 than sixty (60) days to inform uncommitted owners of the applicant's in-

1 tention to develop the mineral resources in the proposed spacing unit
2 and desire to reach an agreement with uncommitted owners in the proposed
3 spacing unit. ~~Provided however, if any owner requests no further con-~~
4 ~~tact from the applicant, the applicant will be relieved of further obli-~~
5 ~~gation to attempt contact to reach agreement with that owner.~~ At least
6 one (1) contact must be by certified U.S. mail sent to an owner's last
7 known address. If an owner is unknown or cannot be found, the applicant
8 must publish a legal notice of its intention to develop and request that
9 the owner contact the applicant in a newspaper of general circulation
10 in the county where the proposed spacing unit is located. The resume
11 of efforts should indicate the applicant has made reasonable efforts to
12 reach an agreement with all uncommitted owners in the proposed spacing
13 unit. Reasonable efforts are met by complying with this subsection.

14 (e) At the time the integration application is filed with the depart-
15 ment, the applicant shall certify that, for uncommitted owners who are un-
16 known or cannot be found, a notice of the application was published in a news-
17 paper in the county where the proposed spacing unit is located. Each pub-
18 lished notice shall include notice to the affected uncommitted owner of the
19 opportunity to respond to the application, and the deadline by which a re-
20 sponse must be filed with the department.

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

28 (g) An application for integration shall be subject to the procedures
29 set forth in section 47-324, Idaho Code.

30 SECTION 8. That Section 47-324, Idaho Code, as amended in Section 3 of
31 House Bill No. 64, as enacted by the First Regular Session of the Sixty-
32 fourth Idaho Legislature, be, and the same is hereby amended to read as fol-
33 lows:

34 47-324. RULES FOR COMMISSION -- ADMINISTRATIVE PROCEDURES. (a) The
35 commission shall have authority to hear rulemaking proceedings, complaints
36 filed with it pursuant to this chapter and appeals from the director's deci-
37 sion on an application filed pursuant to this chapter. The commission may
38 prescribe rules governing the procedure before it, subject to the provisions
39 of the administrative procedure act, chapter 52, title 67, Idaho Code.

40 (b) In all cases where a complaint is made by the commission or any per-
41 son that any provision of this act or any rule or order of the commission is
42 being violated, notice of any hearing to be held on such application or com-
43 plaint, the commission shall serve notice on the interested parties by cer-
44 tified mail, return receipt requested, or in the same manner as is provided
45 in the rules of civil procedure for the service of summons in civil actions.
46 Where the interested party is unknown or cannot be located, the commission
47 shall serve notice by publishing at least one (1) notice of the hearing to
48 such person in a newspaper of general circulation in the county where the af-
49 fected tract is located. Such notice must be sent, delivered or published,

1 as appropriate, at least five (5) business days before the date of the hear-
2 ing.

3 (c) Except as provided in section 47-320(1) (a), Idaho Code, and sub-
4 section (b) of this section, any request for an order related to oil and gas
5 activities within the commission's jurisdiction, other than a civil penalty
6 proceeding pursuant to section 47-325, Idaho Code, or other enforcement ac-
7 tion by the department of lands or the commission, shall be made by applica-
8 tion to the department of lands and processed as provided in this section.

9 (i) The department shall notify the applicant within five (5) business
10 days of receipt of an application if additional information is required
11 for the department to evaluate the application.

12 (ii) For applications involving an order regarding unit operations
13 or integration of a drilling unit, the applicant shall send a copy of
14 the application and supporting documents to all known and located un-
15 committed owners, to all working interest owners within the unit, and
16 to the respective city or county where the proposed unit is located.
17 The mailing shall be sent by certified mail within seven (7) calendar
18 days of filing the application and include notice of the hearing date
19 on which the director will consider the application. ~~The application~~
20 ~~may be redacted pursuant to section 47-322(f), Idaho Code.~~ For any un-
21 committed owners and working interest owners who cannot be located, an
22 applicant shall publish notice of any application for an order, notice
23 of hearing and response deadline once in a newspaper of general circula-
24 tion in the county in which the affected property is located and request
25 the department publish notice on its website within seven (7) calendar
26 days of filing of the application. Only an uncommitted owner in the af-
27 fected unit may file an objection or other response to the application,
28 and the uncommitted owner shall file at least fourteen (14) calendar
29 days before the hearing date provided in the notice.

30 (iii) For applications not involving paragraph (ii) of this subsec-
31 tion, the department and any uncommitted owner within the area defined
32 in the application may file objections or other responses to the appli-
33 cation and shall file at least fourteen (14) calendar days before the
34 hearing date provided in the notice.

35 (iv) The director shall hear the application and make a decision on the
36 application's merits. The director shall set regular hearing dates.
37 Applications shall be filed at least forty-five (45) calendar days be-
38 fore a desired hearing date. Untimely applications shall be continued
39 until the next hearing. The director may for good cause continue any
40 hearing. The director may appoint a hearing officer, who shall have the
41 power and authority to conduct hearings. Discovery is not permitted.
42 The department may appear and testify at the hearing. When applications
43 are uncontested, the applicant may request, and the director may allow,
44 approval without a hearing based on review of the merits of a verified
45 application and the supporting exhibits.

46 (v) The director shall issue a written decision on any such applica-
47 tion within thirty (30) calendar days of the hearing. The director's
48 decision shall not be subject to any motion for reconsideration or fur-
49 ther review, except for appeal to the commission provided in subsection
50 (d) of this section.

1 (d) The director's decision on an application or a request for an or-
2 der may be appealed to the commission by the applicant or any owner who filed
3 an objection or other response to the application within the time required.
4 An appeal must be filed with the director within fourteen (14) calendar days
5 of the date of issuance of the director's written decision. The date of is-
6 suance shall be three (3) calendar days after the director deposits the de-
7 cision in the U.S. mail, or the date on which he remits a decision electron-
8 ically. Such appeal shall include the reasons and authority for the appeal
9 and shall identify any facts in the record supporting the appeal. Any per-
10 son appealing shall serve a copy of the appeal materials on any other person
11 who participated in the proceedings, by certified mail, or by personal ser-
12 vice. Any person who participated in the proceeding may file a response to
13 the appeal within five (5) business days of service of a copy of the appeal
14 materials. The appellant shall provide the director with proof of service of
15 the appeal materials on other persons as required in this section. The com-
16 mission shall make a decision based on the record as set forth in the written
17 submittals of only the appellant and any other participating qualified per-
18 son, the director's decision, and any oral argument taken by the commission
19 at an appeal hearing.

20 (e) Appeals to the commission shall be heard at the next regularly
21 scheduled commission hearing, or at a special meeting of the commission if
22 determined by the commission. In no case will a hearing be later than thirty
23 (30) calendar days after the filing of an appeal. The commission may take
24 argument from, but not new testimony of, the appellant and other qualified
25 participating persons at the hearing. The commission shall make a deci-
26 sion on the appeal at the hearing and issue a written order within five (5)
27 business days of the hearing. The prevailing party shall draft a proposed
28 written order and submit it within two (2) business days. The final order of
29 the commission shall not be subject to any motion for reconsideration.

30 (f) If no appeal is filed with the commission within the required time,
31 the decision of the director shall become the final order.

32 (g) Judicial review of actions taken by the commission shall be gov-
33 erned by the provisions of chapter 52, title 67, Idaho Code.

34 (h) For an application or request for an order submitted under subsec-
35 tion (c) of this section, only a person qualified under subsection (d) of
36 this section who has completed the appeal procedures set forth in this sec-
37 tion shall be considered to have exhausted administrative remedies as re-
38 quired in section 67-5271, Idaho Code.

39 (i) Each order shall include a reasoned statement in support of the
40 decision, including a concise statement of facts supporting any findings,
41 a statement of available procedures and time limits for appeals. Findings
42 must be based exclusively on materials in the record. The applicant and any
43 participating qualified person shall be served with a copy of the order. The
44 order shall include or be accompanied by a certificate of service.

45 (j) Every application shall be signed by the applicant or his represen-
46 tative, and his address shall be stated thereon. The signature of the ap-
47 plicant or his representative constitutes a certificate by him that he has
48 read the application and that to the best of his knowledge, information and
49 belief there is good ground to support the same. Each application shall be
50 of such form and content and accompanied by the number of copies required by

1 rule of the commission. Each application shall be accompanied by a fee as es-
2 tablished in statute or rule.

3 SECTION 9. That Section 47-325, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 47-325. POWERS OF COMMISSION -- WITNESSES -- PENALTY. (a) The commis-
6 sion shall have the power to summon witnesses, to administer oaths, and to
7 require the production of records, books, and documents for examination at
8 any hearing or investigation conducted by it.

9 (b) In case of failure or refusal on the part of any person to comply
10 with a subpoena issued by the commission, or in case of refusal of any witness
11 to testify as to any matter regarding which he may be interrogated, any dis-
12 trict court in the state, upon the application of the commission, may issue
13 an attachment for such person and compel him to comply with such subpoena,
14 and to attend before the commission and produce such records, books, and doc-
15 uments for examination, and to give his testimony. Such court shall have the
16 power to punish for contempt as in the case of disobedience to a like subpoena
17 issued by the court, or for refusal to testify therein.

18 (c) Any person who violates or fails to comply with any of the provi-
19 sions of this chapter, or any rules promulgated hereunder or orders made un-
20 der the provisions of this chapter, may be assessed a civil penalty by the
21 commission or its duly authorized agent of not more than ten thousand dollars
22 (\$10,000) for each violation and shall be liable for reasonable attorney's
23 fees. Each day the violation continues shall constitute a separate and addi-
24 tional violation, punishable by separate and additional civil penalties in
25 like amount or other like civil penalties as determined by the commission;
26 provided that the civil penalties do not begin to accrue until the date no-
27 tice of violation and opportunity to be heard are given.

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

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

34 (3) If the commission is unable to collect such penalty or if any person
35 fails to pay all or a set portion of the civil penalty as determined by
36 the commission, it may recover such amount by action in the appropriate
37 district court.

38 (4) Any person against whom the commission has assessed a civil penalty
39 under the provisions of this section may, within twenty-eight (28) days
40 of the final action by the agency making the assessment, appeal the as-
41 sessment to the district court of the county in which the violation is
42 alleged by the commission to have occurred pursuant to chapter 52, title
43 67, Idaho Code.

44 (5) All civil penalties collected pursuant to this section shall be re-
45 mitted to the oil and gas conservation fund.

46 (d) Whenever it shall appear that any person is violating or threaten-
47 ing to violate any provision of this act or any rule, ~~regulation,~~ or order
48 made hereunder, the commission may bring a civil action in the name of the
49 state against such person in the district court in the county of the resi-

1 dence of the defendant, or in the county of the residence of any defendant, if
2 there be more than one (1) defendant, or in the county where the violation is
3 alleged to have occurred, to restrain such person from continuing such vio-
4 lation or from carrying out the threat of violation. In such suit, the court
5 may grant injunctions, prohibitory and mandatory, including temporary re-
6 straining orders and temporary injunctions. In such suit, the commission
7 may seek damages to recover costs caused by such violation including, but not
8 limited to, costs of well control, spill response and cleanup, restoration
9 of fresh waters, well plugging and abandonment, and reclamation of surface
10 disturbance.

11 (e) Nothing in this act, and no suit by or against the commission, and
12 no violation charged or asserted against any person under any provisions of
13 this act, or any rule, regulation or order issued hereunder, shall impair or
14 abridge or delay any cause of action for damages which any person may have or
15 assert against any person violating any provision of this act, or any rule,
16 regulation, or order issued thereunder. Any person so damaged by the viola-
17 tion may sue for and recover such damages as he otherwise may be entitled to
18 receive. In the event the commission shall fail to bring suit to enjoin any
19 actual or threatened violation of this act, or of any rule, regulation or or-
20 der made hereunder, then any person or party in interest adversely affected
21 and who has, ten (10) days or more prior thereto, notified the commission in
22 writing of such violation or threat thereof and has requested the commission
23 to sue, may, to prevent any or further violation, bring suit for that pur-
24 pose in the district court of any county in which the commission could have
25 brought suit.

26 (f) Any person who knowingly violates any provision of this chapter,
27 or any of the rules promulgated hereunder for carrying out the provisions of
28 this chapter, or who knowingly fails or refuses to comply with any require-
29 ments herein specified, or who knowingly interferes with the commission, its
30 agents, designees or employees in the execution or on account of the execu-
31 tion of its or their duties under this chapter or rules promulgated here-
32 under, shall be guilty of a misdemeanor and upon conviction thereof, shall
33 be fined not more than five thousand dollars (\$5,000) or be imprisoned in a
34 county jail for not more than twelve (12) months, or be subject to both such
35 fine and imprisonment.

36 (g) Nothing in this chapter shall be construed as requiring the com-
37 mission to report minor violations for prosecution when it believes that the
38 public interest will be best served by suitable warnings or other adminis-
39 trative action.