

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 120, As Amended in the Senate

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO OIL AND GAS; AMENDING SECTION 47-310, IDAHO CODE, TO REVISE DEF-
2 INITIONS; AMENDING SECTION 47-314, IDAHO CODE, TO REVISE PROVISIONS
3 REGARDING THE OIL AND GAS CONSERVATION COMMISSION; AMENDING SECTION
4 47-315, IDAHO CODE, TO AUTHORIZE THE COMMISSION TO REGULATE THE PERFO-
5 RATION AND TREATMENT OF WELLS AND TO MAKE TECHNICAL CORRECTIONS; AMEND-
6 ING SECTION 47-316, IDAHO CODE, TO PROVIDE FOR APPLICATIONS TO AMEND
7 THE SIZE, SHAPE, OR LOCATION OF A SPACING UNIT AND TO MAKE A TECHNICAL
8 CORRECTION; AMENDING SECTION 47-317, IDAHO CODE, TO REVISE PROVISIONS
9 REGARDING OIL AND GAS WELLS, TO PROVIDE FOR SPACING UNITS, AND TO MAKE
10 TECHNICAL CORRECTIONS; REPEALING SECTION 47-318, IDAHO CODE, RELATING
11 TO WELL SPACING; AMENDING SECTION 47-320, IDAHO CODE, TO REVISE PRO-
12 VISIONS REGARDING THE INTEGRATION OF TRACTS; AMENDING SECTION 47-321,
13 IDAHO CODE, TO PROVIDE THAT CERTAIN PROVISIONS OF LAW SHALL BE APPLIED
14 IN DETERMINING WHETHER JUST AND REASONABLE TERMS EXIST FOR THE ISSUANCE
15 OF ORDERS ADDING TO OR EXCLUDING FROM A UNIT AREA AND TO MAKE TECHNICAL
16 CORRECTIONS; AMENDING SECTION 47-324, IDAHO CODE, TO REVISE PROVISIONS
17 REGARDING REPORTING REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS;
18 AMENDING SECTION 47-326, IDAHO CODE, TO REVISE PROVISIONS REGARDING
19 PUBLIC DATA; AMENDING SECTION 47-327, IDAHO CODE, TO REVISE PROVISIONS
20 REGARDING CONFIDENTIALITY OF WELL AND TRADE INFORMATION; AMENDING SEC-
21 TION 47-328, IDAHO CODE, TO REVISE PROVISIONS REGARDING RULES; AMENDING
22 SECTION 47-331, IDAHO CODE, TO REVISE PROVISIONS REGARDING ROYALTIES;
23 AMENDING SECTION 47-334, IDAHO CODE, TO PROVIDE FOR MINIMUM SURFACE USE
24 BONDS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND
25 PROVIDING AN EFFECTIVE DATE.
26

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

28 SECTION 1. That Section 47-310, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 47-310. DEFINITIONS. Unless the context otherwise requires, the terms
31 defined in this section shall have the following meanings when used in this
32 act. The use of the plural includes the singular, and the use of the singular
33 includes the plural.

34 (1) "Administrator" means the division administrator for oil and gas
35 conservation within the department of lands, as established under section
36 58-104A, Idaho Code.

37 (2) "American association of professional landmen" is the land profes-
38 sion's resource for support, ethical standards of practice, career advance-
39 ment, and legislative advocacy.

40 (3) "American petroleum institute" or "API" is the largest petroleum
41 and natural gas trade organization in America and represents all segments of
42 America's natural gas and oil industry. API was formed in 1919 as a stan-

1 dards-setting organization and has developed more than seven hundred (700)
 2 standards to enhance operational and environmental safety, efficiency, and
 3 sustainability.

4 (4) "Arms-length contract" means a contract or agreement that has been
 5 arrived at in the marketplace between independent, nonaffiliated persons
 6 with opposing economic interests regarding that contract. For purposes of
 7 this chapter, two persons are affiliated if one person controls, is con-
 8 trolled by, or is under common control with another person. The following
 9 percentages, based on the instruments of ownership of the voting securities
 10 of an entity, or based on other forms of ownership, determine if persons are
 11 affiliated:

12 (a) Ownership in excess of fifty percent (50%) constitutes control, or
 13 as defined in the joint operating agreement.

14 (b) Ownership of ten percent (10%) through fifty percent (50%) creates
 15 a presumption of control.

16 (c) Ownership of less than ten percent (10%) creates a presumption of
 17 noncontrol, which the commission may rebut if it demonstrates actual or
 18 legal control, including the existence of interlocking directorates.
 19 Notwithstanding any other provisions of this chapter, contracts be-
 20 tween relatives, either by blood or by marriage, are not arms-length
 21 contracts. To be considered arms-length for any production month, a
 22 contract must meet the requirements of this definition for that pro-
 23 duction month and must have met the requirements when the contract was
 24 executed.

25 ~~(1) (5) "Commission" means the oil and gas conservation commission.~~

26 (6) "Condensate" means the light liquid hydrocarbons that occur as a
 27 gas under initial subsurface conditions that condense into a liquid with a
 28 decrease in pressure below the dew point during production in the reservoir
 29 and at the surface, or only at the surface. The API gravity of condensate is
 30 typically fifty (50) degrees to one hundred twenty (120) degrees.

31 ~~(2) (7) "Confidential well status" refers to a well for which the oper-~~
 32 ~~ator has applied and received confidential status from the commission pur-~~
 33 ~~suant to section 47-327, Idaho Code. Information about a confidential well~~
 34 ~~is exempt from disclosure as to the public, but not with regard to the commis-~~
 35 ~~sion or other state authority.~~

36 ~~(3) "Condensate" means the liquid produced by the condensation of a va-~~
 37 ~~por or gas either after it leaves the reservoir or while still in the reser-~~
 38 ~~voir.~~

39 ~~(4) (8) "Correlative rights" means the opportunity of each owner in a~~
 40 ~~pool to produce his just and equitable share of oil and gas in a pool without~~
 41 ~~waste.~~

42 (9) "Days" means calendar days unless otherwise noted.

43 ~~(5) (10) "Department" means the Idaho department of lands.~~

44 ~~(6) (11) "End purchaser" means a third-party, arms-length purchaser~~
 45 ~~of oil, gas or condensate that is ready for refining or other use, or a~~
 46 ~~third-party, arms-length purchaser of other fluid or gaseous hydrocarbons~~
 47 ~~that have been separated in a processing facility.~~

48 ~~(7) (12) "Exploration" means activities related to the various geolog-~~
 49 ~~ical and geophysical methods used to detect and determine the existence and~~
 50 ~~extent of hydrocarbon deposits. The activities related to the search for oil~~

1 and gas include without limitation aerial, geological and geophysical sur-
2 veys and studies, seismic work, core drilling and the drilling of test wells.

3 ~~(8)~~ (13) "Field" means the ~~general~~ surface area underlaid by one (1) or
4 more pools that are related to a single geological feature.

5 ~~(9)~~ (14) "Gas" means natural gas, which is a mixture of hydrocarbons
6 and varying quantities of non-hydrocarbons that exist either in the gaseous
7 phase or in solution with crude oil in natural underground reservoirs.

8 ~~(10)~~ (15) "Gathering facility" means a facility that receives gathering
9 lines from wells, commingles the produced materials, and then sends those
10 materials to a processing facility.

11 ~~(11)~~ (16) "Market value" means the price at the time of sale, in cash
12 or on terms reasonably equivalent to cash, for which the oil and gas should
13 bring in a competitive and open market under all conditions requisite to a
14 fair sale, the buyer and seller each acting prudently and knowledgeably, and
15 assuming the price is not affected by undue stimulus from either party. The
16 costs of marketing, transporting and processing oil and gas produced shall
17 be borne entirely by the producer, and such cost shall not reduce the sever-
18 ance tax directly or indirectly.

19 ~~(12)~~ (17) "MCF" means one thousand cubic feet of gas.

20 ~~(13)~~ (18) "Mineral interest" means the right to explore, drill or pro-
21 duce oil and gas ~~lying~~ laying beneath the surface of property.

22 ~~(14)~~ (19) "Natural gas liquids" or "NGL" means the liquid hydrocarbons
23 that are gaseous in the reservoir, but will separate can be separated out in
24 liquid form at the surface at the pressures and temperatures at which separ-
25 ators normally operate. The liquids consist of varying proportions of bu-
26 tane, propane, pentane and heavier fractions, with little or no methane or
27 ethane. Natural gas liquids can be classified according to their vapor pres-
28 ures as low (condensate), intermediate (natural gasoline), and high (liq-
29 uefied petroleum gas).

30 ~~(15)~~ (20) "Natural gas plant liquids" means hydrocarbon compounds in
31 raw gas that are separated as liquids at gas processing plants, fractionat-
32 ing plants, and cycling plants. Natural gas plant liquids obtained include
33 ethane, liquefied petroleum gases (propane and the butanes), and pentanes
34 plus any heavier hydrocarbon compounds. Component products may be fraction-
35 ated or mixed.

36 ~~(16)~~ (21) "Occupied structure" means a building with walls and a roof
37 within which individuals live or customarily work.

38 ~~(17)~~ (22) "Oil" means and includes crude petroleum oil and other hydro-
39 carbons, regardless of gravity, that are produced at the wellhead in liquid
40 form and the liquid hydrocarbons known as distillate or condensate recovered
41 or extracted from gas.

42 ~~(18)~~ (23) "Oil and gas" means oil or gas or both. "Oil and gas" refers
43 not only to oil and gas in combination with each other but also generally to
44 oil, gas, casinghead gas, casinghead gasoline, gas-distillate or other hy-
45 drocarbons, or any combination or combinations thereof, which may be found
46 in or produced from a common source or supply of oil, oil and gas, or gas-dis-
47 tillate.

48 ~~(19)~~ "Oil and gas administrator" means the division administrator for
49 oil and gas conservation within the department of lands, as established un-
50 der section 58-104A, Idaho Code.

1 ~~(20)~~ (24) "Oil and gas facility" means equipment or improvements used or
2 installed at an oil and gas location for the exploration, production, with-
3 drawal, gathering, treatment or processing of oil or natural gas.

4 ~~(21)~~ (25) "Oil and gas operations" means operations to explore for, de-
5 velop or produce oil and gas.

6 ~~(22)~~ (26) "Operator" means any duly authorized person who is in charge
7 of the development of a lease, pool, or spacing or unitized area, or the oper-
8 ation of a producing well.

9 ~~(23)~~ (27) "Owner" means the person who has the right to drill into and
10 produce from a pool and to appropriate the oil and gas that he produces there-
11 from, either for himself or for himself and others.

12 ~~(24)~~ (28) "Person" means any natural person, corporation, association,
13 partnership, receiver, trustee, executor, administrator, guardian, fidu-
14 ciary or other representatives of any kind, and includes any government or
15 any political subdivision of any agency thereof. The masculine gender, in
16 referring to a person, includes the feminine and the neuter genders.

17 ~~(25)~~ (29) "Pool" means an underground reservoir containing a common ac-
18 cumulation of oil ~~and or gas, or both~~. Each zone of a structure that is com-
19 pletely separated from any other zone in the same structure is a pool.

20 ~~(26)~~ (30) "Processing facility" means a facility that refines gas and
21 liquid hydrocarbons.

22 ~~(27)~~ (31) "Producer" means the owner of a well or wells capable of pro-
23 ducing oil and gas.

24 ~~(28)~~ (32) "Reservoir" means a subsurface volume of porous and permeable
25 rock in which oil and gas may have accumulated.

26 ~~(29)~~ (33) "Royalty owner" means any owner of an interest in an oil and
27 gas lease that entitles him to share in the production of the oil and gas un-
28 der the lease.

29 ~~(30)~~ (34) "Tract" means an expanse of land ~~representing the surface ex-~~
30 ~~pression of the underlying mineral estate that includes oil and gas rights.~~
31 A tract that:

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

36 (b) Is of no particular size;

37 (c) May be irregular in form;

38 (d) Is contiguous;

39 (e) May ~~lie~~ lay in more than one (1) township or one (1) section;

40 (f) May have a boundary defined entirely or in part by natural monu-
41 ments such as streams, divides or straight lines connecting prominent
42 features of topography; and

43 (g) May be combined with other tracts to form a lease.

44 ~~(31)~~ (35) "Uncommitted owner" means ~~one~~ an owner who is not leased or
45 otherwise contractually obligated to the operator.

46 ~~(32)~~ (36) (a) "Waste" as applied to gas shall include the escape, blow-
47 ing or releasing, directly or indirectly, into the open air of gas from
48 wells productive of gas only, or of gas in an excessive or unreasonable
49 amount from wells producing oil or both oil and gas; and the produc-
50 tion of gas in quantities or in such manner as will unreasonably reduce

1 reservoir pressure or unreasonably diminish the quantity of oil and gas
 2 that might ultimately be produced; excepting gas that is reasonably
 3 necessary in the drilling, completing and testing of wells and in fur-
 4 nishing power for the production of wells.

5 ~~(33)~~ (b) "Waste" as applied to oil means and includes: underground
 6 waste; inefficient, excessive or improper use or dissipation of reser-
 7 voir energy, including gas energy and water drive; surface waste,
 8 open-pit storage and waste incident to the production of oil in ex-
 9 cess of the producer's ~~above-ground~~ aboveground storage facilities and
 10 lease and contractual requirements, but excluding storage (other than
 11 open-pit storage) reasonably necessary for building up and maintaining
 12 crude stocks and products thereof for consumption, use and sale; and
 13 the locating, drilling, equipping, operating or producing of any well
 14 in a manner that causes, or tends to cause, reduction of the quantity of
 15 oil and gas ultimately recoverable from a pool under prudent and proper
 16 operations.

17 ~~(34)~~ (37) "Workover" means an operation in which a well is reentered for
 18 the purpose of maintaining or repairing it.

19 (38) "Zone" means a single continuous deposit of oil or gas, or both oil
 20 and gas, in the pores of a reservoir. A zone has a single pressure system and
 21 does not communicate with other zones.

22 SECTION 2. That Section 47-314, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 47-314. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT
 25 ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created an oil
 26 and gas conservation commission of the state of Idaho within the department
 27 of lands. The commission shall consist of ~~the director of the department of~~
 28 ~~lands,~~ a county commissioner as described in this section, ~~and three~~ ~~(3)~~ four
 29 (4) members appointed by the governor with the advice and consent of the sen-
 30 ate.

31 (a) The county commissioner shall be from a county where oil and gas
 32 are being produced or have been produced within the last ten (10) years
 33 and shall be elected by a majority of the county commissioners from such
 34 producing counties. The county commissioner shall serve a four (4) year
 35 term. A vacancy shall be filled by election for the unexpired term in
 36 the same manner provided for election to a full term.

37 (b) The governor shall appoint four (4) members appointed by the gov-
 38 ernor who shall serve at the pleasure of the governor. One (1) member
 39 shall be knowledgeable in oil and gas matters and shall have a college
 40 degree in geosciences or engineering and at least ten ~~(10)~~ five (5)
 41 years of experience in the oil and gas industry. The governor shall
 42 appoint the three (3) technical expert members: one (1) member for a
 43 term of four (4) years, one (1) member for a term of three (3) years,
 44 and one (1) member for a term of two (2) years. Thereafter, the One (1)
 45 member shall be a mineral interest owner without an oil and gas lease in
 46 a county where oil and gas have been produced. One (1) member shall be
 47 a resident of Idaho knowledgeable in land use matters and shall have at
 48 least five (5) years experience in land use matters. The term of office
 49 of each appointed member of the commission shall be four (4) years. A

1 vacancy shall be filled by appointment for the unexpired term in the
2 same manner provided for an appointment to the full term.

3 ~~(2) On July 1, 2017, the terms of the existing members of the commission~~
4 ~~appointed under this section shall terminate, with the sole exception that~~
5 ~~such commission shall decide any administrative actions filed prior to July~~
6 ~~1, 2017. Actions filed on and after July 1, 2017, shall be decided by the new~~
7 ~~commission established under this section.~~

8 ~~(3)~~ (2) The commission shall annually elect a chairman and a vice chair-
9 man from ~~their~~ its membership. Such officers shall hold their respective of-
10 fices until their successors are elected. If a vacancy occurs in either of-
11 fice, the commission shall elect a member to fill such office for the remain-
12 der of the term.

13 ~~(4)~~ (3) The commission shall meet at least annually and thereafter on
14 dates set by the commission. A majority of the members shall constitute a
15 quorum.

16 ~~(5)~~ (4) The members of the commission appointed by the governor or se-
17 lected by the county commissioners shall be compensated as provided in sec-
18 tion 59-509(n), Idaho Code.

19 ~~(6)~~ (5) The oil and gas administrator of the department of lands shall
20 be the secretary for the commission.

21 ~~(7)~~ (6) The department of lands shall have the power to exercise, un-
22 der the general control and supervision of the commission, all of the rights,
23 powers and duties vested by law in the commission, except those provided in
24 sections 47-328 and 47-329(3), Idaho Code.

25 ~~(8)~~ (7) The commission shall have and is hereby given jurisdiction and
26 authority over all persons and property, public and private, necessary to
27 enforce the provisions of this act, and shall have power and authority to
28 make and enforce rules, regulations, and orders, and to do whatever may rea-
29 sonably be necessary to carry out the provisions of this act. Any delegation
30 of authority to any other state officer, board or commission to administer
31 any and all other laws of this state relating to the conservation of oil and
32 gas is hereby rescinded and withdrawn and such authority is hereby unqual-
33 ifiedly conferred upon the commission, as herein provided. The commission
34 shall follow procedures on applications as provided in section 47-328, Idaho
35 Code, except as provided in sections 47-316(1) (a) and 47-329(3), Idaho Code.

36 ~~(9)~~ (8) It is the intent of the legislature to occupy the field of the
37 regulation of oil and gas exploration and production with the limited ex-
38 ception of the exercise of planning and zoning authority granted cities and
39 counties pursuant to chapter 65, title 67, Idaho Code.

40 ~~(10)~~ (9) To implement the purpose of the oil and gas conservation act,
41 and to advance the public interest in the orderly development of the state's
42 oil and gas resources, while at the same time recognizing the responsibility
43 of local governments to protect the public health, safety and welfare, it is
44 herein provided that:

45 (a) The commission will notify the respective city or county with ju-
46 risdiction upon receipt of an application and will remit, electroni-
47 cally, a copy of all application materials.

48 (b) No ordinance, resolution, requirement or standard of a city, county
49 or political subdivision, except a state agency with authority, shall
50 actually or operationally prohibit the extraction of oil and gas;

1 provided however, that extraction may be subject to reasonable local
 2 ordinance provisions, not repugnant to law, ~~which that~~ protect pub-
 3 lic health, public safety, and public order or ~~which that~~ prevent harm
 4 to public infrastructure or degradation of the value, use and enjoy-
 5 ment of private property. Any ordinance regulating extraction enacted
 6 pursuant to chapter 65, title 67, Idaho Code, shall provide for admin-
 7 istrative permitting under conditions established by ordinance, not to
 8 exceed twenty-one (21) days, unless extended by agreement of the par-
 9 ties or upon good cause shown.

10 (c) No ordinance, resolution, requirement or standard of a city, county
 11 or political subdivision, except a state agency with authority, shall
 12 actually or operationally prohibit construction or operation of facil-
 13 ities and infrastructure needed for the post-extraction processing and
 14 transport of gas and oil. However, such facilities and infrastructure
 15 shall be subject to local ordinances, regulations and permitting re-
 16 quirements, not repugnant to law, as provided in chapter 65, title 67,
 17 Idaho Code.

18 ~~(11)~~ (10) The commission may sue and be sued in its administration of
 19 this act in any state or federal district court in the state of Idaho having
 20 jurisdiction of the parties or of the subject matter.

21 ~~(12)~~ (11) The attorney general shall act as the legal advisor of the com-
 22 mission and represent the commission in all court proceedings and, in all
 23 proceedings before ~~it~~ the commission, and in any proceeding to which the com-
 24 mission may be a party before any department of the federal government. The
 25 commission may retain additional counsel to assist the attorney general and,
 26 for such purpose, may employ any funds available under this act.

27 SECTION 3. That Section 47-315, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 47-315. AUTHORITY OF COMMISSION. (1) The commission is authorized and
 30 it is its duty to regulate the exploration for and production of oil and gas,
 31 to prevent waste of oil and gas and, to protect correlative rights, and to
 32 otherwise ~~to~~ administer and enforce this act. It has jurisdiction over all
 33 persons and property necessary for such purposes. In the event of a con-
 34 flict, the duty to prevent waste is paramount.

35 (2) The commission and the department shall protect correlative rights
 36 by administering the provisions of this chapter in such a manner as to avoid
 37 the drilling of unnecessary wells or incurring unnecessary expense, and in a
 38 manner that allows all operators and royalty owners a fair and just opportu-
 39 nity for production and the right to recover, receive and enjoy the benefits
 40 of oil and gas or equivalent resources, while also protecting the rights of
 41 surface owners.

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

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

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

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

4 (b) The taking and preservation of samples and findings, if taken or an-
5 alyzed;

6 (c) The drilling, casing, operation and plugging of wells in such man-
7 ner as to prevent: (i) the escape of oil and gas out of one (1) pool
8 into another; (ii) the detrimental intrusion of water into an oil and
9 gas pool that is avoidable by efficient operations; (iii) the pollu-
10 tion of ~~fresh water~~ freshwater supplies by oil, gas, or saltwater; (iv)
11 ~~blow-outs~~ blowouts, cavings, seepages, and fires; and (v) waste as de-
12 fined in section 47-310, Idaho Code;

13 (d) The taking of tests of oil and gas wells;

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

19 (f) That the production from wells be separated into gaseous and liquid
20 hydrocarbons, ~~and that~~ which shall each be measured by means and upon
21 standards that may be prescribed by the commission;

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

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

26 (i) That every person who produces oil and gas in the state keep and
27 maintain for a period of five (5) years complete and accurate records
28 of the quantities thereof, which records, or certified copies thereof,
29 shall be available for examination by the commission or its agents at
30 all reasonable times within said period; and that every such person
31 file with the commission such reasonable reports as it may prescribe
32 with respect to such oil and gas production; and

33 (j) The filing of reports or plats with the commission that it may pre-
34 scribe.

35 (6) Without limiting its general authority, and without limiting the
36 authority of other state agencies or local governments as provided by law,
37 the commission shall have the specific authority to regulate:

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

41 (b) The ~~shooting~~ perforation and treatment of wells;

42 (c) The spacing or locating of wells;

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

46 (e) The disposal of produced water and oil field wastes.

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

49 (8) The commission is authorized to make and enforce rules, regula-
50 tions, and orders reasonably necessary to prevent waste, to protect correla-

1 tive rights, to govern the practice and procedure before the commission, and
 2 to otherwise ~~to~~ administer this act.

3 (9) The commission shall require the department to perform the follow-
 4 ing activities on an annual basis:

5 (a) Inspect and report on all active well sites and equipment;

6 (b) Visit and file a report on production and processing facilities;
 7 and

8 (c) Submit an opinion as to any areas of concern, as identified on in-
 9 spection reports.

10 SECTION 4. That Section 47-316, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 47-316. PERMIT TO DRILL OR TREAT A WELL -- FEES. (1) It shall be un-
 13 lawful to commence operations for the drilling or treating of a well for oil
 14 and gas without first giving notice to the commission of intention to drill
 15 or treat and without first obtaining a permit from the commission under such
 16 rules and regulations as may be reasonably prescribed by the commission and
 17 by paying to the commission a filing and service fee as provided by this sec-
 18 tion.

19 (a) Any request for a permit or authorization as set forth in subsection
 20 (3) (a), (b), (c), (d), (e), (f), (g), (m), (n) or (o) of this section
 21 shall be made by application to the department of lands, and processed
 22 as provided in this section.

23 (b) The department shall notify the director of the department of water
 24 resources regarding applications for permits to drill or treat a well.
 25 The director of water resources shall have ten (10) business days from
 26 the date of receipt of such notification from the department of lands to
 27 recommend conditions he believes necessary to protect freshwater sup-
 28 plies.

29 (c) Applications submitted under this section, except those listed in
 30 subsection (3) (c) and (g) of this section, shall be posted on the de-
 31 partment of lands' website for ten (10) business days for a written com-
 32 ment period.

33 (d) The department of lands shall approve or deny applications in sub-
 34 section (3) (a), (b), (c), (d), (f), (g), (m), (n) and (o) of this sec-
 35 tion in a timely and efficient manner. This time frame does not apply to
 36 permits submitted with an application processed under section 47-328,
 37 Idaho Code.

38 (e) The department's decision made under this section may be appealed
 39 to the commission by the applicant pursuant to the procedure in section
 40 47-328(4) through (6), Idaho Code.

41 (2) Upon issuance of any permit to drill or treat a well, a copy thereof,
 42 including any limitations, conditions, controls, rules or regulations at-
 43 tached thereto for the protection of freshwater supplies as required in sec-
 44 tion 47-315, Idaho Code, shall be forwarded to the director of the department
 45 of water resources.

46 (3) The department shall collect the following fees, which shall be re-
 47 mitted to the state treasurer for deposit in the oil and gas conservation
 48 fund and shall be used exclusively to pay the costs and expenses incurred in
 49 connection with the administration and enforcement of this chapter:

- 1 (a) Application for a permit to drill a well\$2,000
- 2 (b) Application to deepen a well 500
- 3 (c) Application to plug and abandon a well, if not completed within one
- 4 (1) year from issuance of permit to drill a well 500
- 5 (d) Application to treat a well, if separate from an application for a
- 6 permit to drill a well1,000
- 7 (e) Application to construct a pit, if separate from an application for
- 8 a permit to drill a well1,500
- 9 (f) Application to directionally drill a well, if separate from an ap-
- 10 plication for a permit to drill a well1,000
- 11 (g) Application for a recompletion, modified ~~blow-out~~ blowout preven-
- 12 tion standards, using a vacuum for oil or gas recovery, removing casing,
- 13 or multiple zone completion, if separate from an application for a per-
- 14 mit to drill or plug and abandon a well1,000
- 15 (h) Application for an exceptional well location, if separate from an
- 16 application for a permit to drill a well1,300
- 17 (i) Application to ~~change~~ amend the size, shape or location of a spacing
- 18 unit1,300
- 19 (j) Application to establish or amend a fieldwide spacing order ..1,300
- 20 (k) Application for an integration order1,300
- 21 (l) Application for a unitization order1,300
- 22 (m) Application for a seismic operations permit covering less than
- 23 twelve (12) miles of a 2-D survey 800
- 24 (n) Application for a seismic operations permit covering between
- 25 twelve (12) miles and twenty-four (24) miles of a 2-D survey, or up to
- 26 seventy-two (72) square miles of a 3-D survey2,000
- 27 (o) Application for a seismic operations permit covering more than
- 28 twenty-four (24) miles of a 2-D survey, or more than seventy-two (72)
- 29 square miles of a 3-D survey2,500

30 SECTION 5. That Section 47-317, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 47-317. ~~DRILLING LOCATIONS~~ SPACING UNITS. (1) To prevent or assist
 33 in preventing the waste of oil and gas, to avoid drilling unnecessary wells
 34 or to protect correlative rights, the department may, on its own motion or
 35 on the application of an interested person, and after notice and opportu-
 36 nity for hearing, issue an order establishing ~~drilling~~ spacing units on a
 37 statewide basis, or for defined areas within the state, or for oil and gas
 38 wells drilled to varying depths.

39 (2) An order establishing ~~drilling~~ spacing units shall ~~comply with sec-~~
 40 ~~tion 47-318(2)~~ specify the location, size, and shape of the unit, which, in
 41 the opinion of the department, shall result in the efficient and economi-
 42 cal development of the pool as a whole. These units established by the de-
 43 partment shall be geographic. The geographic boundary of the unit shall be
 44 described in accordance with the public land survey system. The department
 45 shall issue an order establishing a spacing unit or units to determine the
 46 area that can be efficiently and economically drained by one (1) well for the
 47 orderly development of the pool. The department may amend the order if ev-
 48 idence determines that additional wells are needed to efficiently and eco-
 49 nomically drain the pool or if evidence indicates the location of the pool

1 is different from that in the initial order. Such amendment is subject to
 2 notice and an opportunity for hearing as provided in section 47-328, Idaho
 3 Code.

4 (3) In the absence of an order by the department establishing ~~drilling~~
 5 ~~or~~ spacing units, or authorizing different well density patterns for partic-
 6 ular pools or parts thereof, the following requirements shall apply:

7 (a) Oil wells. Every well drilled for oil shall be located in ~~the center~~
 8 ~~of a drilling a~~ spacing unit consisting of a forty (40) acre governmen-
 9 tal quarter-quarter section or lot or tract, or combination of lots and
 10 tracts substantially equivalent thereto, ~~with a tolerance of two hun-~~
 11 ~~dred (200) feet in any direction from the center location.~~

12 (i) An oil well located on a forty (40) acre spacing unit shall
 13 have a minimum setback of three hundred thirty (330) feet from the
 14 completed interval of the wellbore to the closest exterior geo-
 15 graphic boundary of the unit.

16 ~~(i)~~ (ii) No oil well shall be drilled less than nine hundred ninety
 17 (990) feet from any other well drilling to and capable of producing
 18 oil from the same pool; ~~and.~~

19 ~~(ii) No oil well shall be completed in a known pool unless it is lo-~~
 20 ~~cated more than nine hundred ninety (990) feet from any other well~~
 21 ~~completed in and capable of producing oil from the same pool.~~

22 (b) ~~Vertical~~ Directional and vertical gas wells. Every directional
 23 well and vertical well drilled for gas shall be located in a drilling
 24 spacing unit consisting of ~~either a one hundred sixty (160) acre gov-~~
 25 ~~ernmental quarter section or lot or tract, or combination of lots and~~
 26 ~~tracts substantially equivalent thereto, or a six hundred forty (640)~~
 27 ~~acre governmental section or lot or tract, or combination of lots or~~ and
 28 tracts substantially equivalent thereto. A vertical gas well located
 29 on a one hundred sixty (160) acre drilling unit shall have a minimum
 30 setback of three hundred thirty (330) feet to the exterior boundaries of
 31 the quarter section. A directional or vertical gas well located on a six
 32 hundred forty (640) acre drilling spacing unit shall have a minimum set-
 33 back of six hundred sixty (660) feet to the from the completed interval
 34 of the wellbore to the closest exterior boundaries of the governmental
 35 section.

36 (i) No gas well shall be drilled with the closest point of its
 37 completed interval less than nine hundred ninety (990) feet from
 38 the closest point of the completion interval of any other well
 39 drilling to and capable of producing gas from the same pool; and

40 (ii) No gas well shall be completed in a known pool unless ~~it~~ the
 41 closest point of the completion interval is located more than nine
 42 hundred ninety (990) feet from the closest point of the completion
 43 interval of any other well completed in and capable of producing
 44 gas from the same pool.

45 (c) Horizontal wells. Every horizontal well drilled shall be located
 46 in a ~~drilling~~ spacing unit consisting of a six hundred forty (640) acre
 47 governmental section or lot or tract, or combination of lots ~~or~~ and
 48 tracts substantially equivalent thereto. No portion of the completed
 49 interval of a horizontal lateral shall be closer than six hundred sixty
 50 (660) feet to a ~~section boundary~~ vertical plane intersecting with the

1 closest point of a unit boundary or uncommitted tract within a unit.
 2 Except for wells in federal exploratory units or in secondary units, the
 3 completed interval shall be no closer than one thousand three hundred
 4 twenty (1,320) feet to any horizontal well or vertical well completed in
 5 the same formation.

6 ~~(d) Notice. After drilling, testing and completing a well that meets~~
 7 ~~the location requirements in paragraphs (a), (b) or (c) of this subsec-~~
 8 ~~tion, but prior to producing that well, an operator shall provide notice~~
 9 ~~and opportunity for hearing for the proposed drilling unit. In addition~~
 10 ~~to any other notice required by statute or rule, the operator shall pro-~~
 11 ~~vide notice of the proposed drilling unit by certified mail to all un-~~
 12 ~~committed owners within the proposed drilling unit. The department may~~
 13 ~~authorize drilling units upon application, notice and an opportunity~~
 14 ~~for hearing as provided in section 47-328, Idaho Code. However, prior~~
 15 ~~to establishing a drilling unit for a well that meets the location re-~~
 16 ~~quirements in paragraph (a), (b) or (c) of this subsection, the depart-~~
 17 ~~ment may grant a permit to drill that provides only the notice required~~
 18 ~~in section 47-316, Idaho Code.~~

19 (4) An operator may request a change an amendment in the size, shape or
 20 location of a drilling spacing unit under this section, as provided in sec-
 21 tion 47-318(6), Idaho Code. Request may be made for drilling spacing units
 22 that are:

23 (a) Larger or smaller than forty (40) acres for oil;

24 (b) Larger or smaller than ~~one hundred sixty (160)~~ six hundred forty
 25 (640) acres for gas; or

26 (c) Not located within the boundaries of a governmental section, quar-
 27 ter section or quarter-quarter section.

28 (5) ~~Changes to drilling~~ An amendment to spacing units may be authorized
 29 upon application, notice and an opportunity for hearing as provided in sec-
 30 tion 47-328, Idaho Code. To authorize a change an amendment, the department
 31 shall find that such change amendment would assist in preventing the waste
 32 of oil and gas, avoid drilling of unnecessary wells, or protect correlative
 33 rights. In addition to any other notice required by statute or rule, an op-
 34 erator shall provide proper notice and a copy of the application to all un-
 35 committed owners within the proposed unit and to all other parties an opera-
 36 tor reasonably believes may be affected. In establishing drilling amending
 37 spacing units under this section, the department shall review the drilling
 38 spacing unit's size, shape and location based on the application, any sup-
 39 porting exhibits, and evidence introduced at a hearing.

40 (6) The department may amend an order that establishes spacing units
 41 for a pool to provide for:

42 (a) An exception to the authorized location of a well;

43 (b) The inclusion or exclusion of additional areas that overlay the
 44 pool as determined by the commission;

45 (c) The increase or decrease of the size of spacing units; or

46 (d) The drilling of additional wells within spacing units. A pool may
 47 be divided into zones, and a spacing unit for each zone may be estab-
 48 lished if necessary. The spacing unit within the zone may not be smaller
 49 than the maximum area that can be efficiently and economically drained
 50 by one (1) or more wells.

1 (7) Upon the filing of an application to establish a spacing unit, no
2 additional well shall be commenced for production from the pool until the or-
3 der establishing a spacing unit has been made, unless the commencement of the
4 well is authorized by order of the department.

5 (8) The department may establish a spacing unit and concurrently autho-
6 rize the drilling of more than one (1) well in a spacing unit if the depart-
7 ment finds that:

8 (a) Engineering or geologic characteristics justify the drilling of
9 more than one (1) well in that spacing unit; and

10 (b) The drilling of more than one (1) well in that spacing unit will not
11 result in waste.

12 SECTION 6. That Section [47-318](#), Idaho Code, be, and the same is hereby
13 repealed.

14 SECTION 7. That Section 47-320, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 47-320. INTEGRATION OF TRACTS -- ORDERS OF DEPARTMENT. (1) When two
17 (2) or more separately owned tracts are embraced within a spacing unit, or
18 when there are separately owned interests in all or a part of a spacing unit,
19 the interested persons may integrate their tracts or interests for the de-
20 velopment and operation of the spacing unit. In the absence of voluntary in-
21 tegration, the department, upon the application of any owner in that pro-
22 posed spacing unit, shall order integration of all tracts or interests in
23 the spacing unit for drilling of a well or wells, for development and op-
24 eration thereof and for the sharing of production therefrom. The depart-
25 ment, as a part of the order establishing a spacing unit ~~or units~~, may pre-
26 scribe the terms and conditions upon which the royalty interests in the unit
27 ~~or units~~ shall, in the absence of voluntary agreement, be deemed to be inte-
28 grated without the necessity of a subsequent separate order integrating the
29 royalty interests. Each such integration order shall be upon ~~terms and con-~~
30 ~~ditions that are the~~ just and reasonable terms and conditions set forth in
31 this section.

32 (2) All operations, including, but not limited to, the commencement,
33 drilling, or operation of a well upon any portion of a spacing unit for which
34 an integration order has been entered, shall be deemed for all purposes the
35 conduct of such operations upon each separately owned tract in the spacing
36 unit by the several owners thereof. That portion of the production allo-
37 cated to a separately owned tract included in a spacing unit shall, when pro-
38 duced, be deemed, for all purposes, to have been actually produced from such
39 separately owned tract by a well drilled thereon.

40 (3) Each such integration order shall authorize the drilling, equip-
41 ping and operation, or operation, of a well or wells on the spacing unit;
42 shall designate an operator for the integrated unit; shall prescribe the
43 time and manner in which all the owners in the spacing unit may elect to par-
44 ticipate therein; and shall make provision for the payment by all those who
45 elect to participate therein of the reasonable actual cost thereof, plus a
46 reasonable charge for supervision and interest. Each such integration order
47 shall provide for the ~~four (4)~~ three (3) following options:

1 (a) Working interest owner. An owner who elects to participate as a
2 working interest owner shall pay the proportionate share of the actual
3 costs of drilling and operating a well allocated to the owner's interest
4 in the spacing unit. Working interest owners who share in the costs of
5 drilling and operating the well are entitled to their respective shares
6 of the production of the well. The operator of the integrated spacing
7 unit and working interest owners shall enter into ~~a~~ an approved joint
8 operating agreement approved by the department in the integration order.
9 The department shall deem the joint operating agreement as just
10 and reasonable if the agreement is based on a standard industry form,
11 such as those supplied by the American association of professional
12 landmen, and if the operator demonstrates to the department that any
13 amendments to the standard form are not prejudicial to working interest
14 owners.

15 (b) Nonconsenting working interest owner. An owner who refuses to
16 share in the risk and actual costs of drilling and operating the well,
17 but desires to participate as a working interest owner, is a noncon-
18 senting working interest owner. The operator of the integrated spacing
19 unit shall be entitled to recover a risk penalty of up to three hundred
20 percent (300%) of the nonconsenting working interest owner's share of
21 the cost of drilling and operating the well under the terms set forth
22 in the integration order. After all the costs have been recovered by
23 the consenting owners in the spacing unit, the nonconsenting owner is
24 entitled to his respective shares of the production of the well, and
25 shall be liable for his pro rata share of costs as if the nonconsenting
26 owner had originally agreed to pay the costs of drilling and operating
27 the well. The operator of the integrated spacing unit and nonconsenting
28 working interest owners shall enter into a joint operating agreement
29 approved by the department in the integration order. The department
30 shall deem the joint operating agreement as just and reasonable if the
31 agreement is based on a standard industry form, such as those supplied
32 by the American association of professional landmen, and if the opera-
33 tor demonstrates to the department that any amendments to the standard
34 form are not prejudicial to nonconsenting working interest owners.

35 ~~(c) Leased. An owner may enter into a lease with the operator of the in-~~
36 ~~tegrated spacing unit under the terms and conditions in the integration~~
37 ~~order. The owner shall receive no less than one-eighth (1/8) royalty.~~
38 ~~The operator of an integrated spacing unit shall pay a leasing owner the~~
39 ~~highest bonus payment per acre that the operator paid to another owner~~
40 ~~in the spacing unit prior to the filing of the integration application.~~

41 ~~(d) Deemed leased. If an owner fails to make an election within the~~
42 ~~election period set forth in the integration order, such owner's inter-~~
43 ~~est will be deemed leased under the terms and conditions in the integra-~~
44 ~~tion order. The owner shall receive one-eighth (1/8) royalty. The op-~~
45 ~~erator of an integrated spacing unit shall pay a leasing owner the high-~~
46 ~~est bonus payment per acre that the operator paid to another owner in the~~
47 ~~spacing unit prior to the filing of the integration application.~~

48 (c) Base entitlement. If an owner fails to make an election within the
49 election period set forth in the integration order, the operator shall
50 compensate such owner for the owner's share of production with the fol-

1 lowing just and reasonable terms, provided that nothing in this para-
 2 graph shall be deemed to prevent the operator and owners from voluntar-
 3 ily agreeing to different lease terms before or after the entry of an in-
 4 tegration order:

5 (i) Such owner shall receive a minimum one-eighth (1/8) royalty
 6 of any gas, oil, or natural gas liquids produced, proportionate to
 7 the owner's interest in the integrated unit.

8 (ii) Royalty payments shall comply with the terms of section
 9 47-331, Idaho Code.

10 (iii) The operator of an integrated spacing unit shall pay such
 11 owner the highest bonus payment per acre that the operator paid to
 12 another owner in the spacing unit prior to the filing of the inte-
 13 gration application.

14 (iv) The operator shall avoid, to the maximum extent possible,
 15 any use of surface lands belonging to owners integrated under this
 16 subsection. Where such use cannot be reasonably avoided, use of
 17 surface lands, and compensation for such use, shall be governed by
 18 section 47-334, Idaho Code.

19 (v) The operator shall comply with the requirements of sections
 20 47-319, 47-332, 47-333, and 47-334, Idaho Code.

21 (vi) An integration order including the terms specified in this
 22 subsection fulfills the department's obligation to integrate min-
 23 eral interests upon just and reasonable terms.

24 (4) An application for an order integrating the tracts or interests in a
 25 spacing unit shall substantially contain and be limited to only the follow-
 26 ing:

27 (a) The applicant's name and address;

28 (b) A description of the spacing unit to be integrated;

29 (c) A geologic statement concerning the likely presence of hydrocar-
 30 bons;

31 (d) A statement that the proposed drill site is leased;

32 (e) A statement of the proposed operations for the spacing unit, in-
 33 cluding the name and address of the proposed operator;

34 (f) A proposed joint operating agreement ~~and a proposed lease form~~;

35 (g) A list of all uncommitted owners in the spacing unit to be inte-
 36 grated under the application, including names and addresses;

37 (h) An affidavit indicating that at least sixty-seven percent (67%) of
 38 the mineral interest acres in the spacing unit support the integration
 39 application by leasing or participating as a working interest owner;

40 (i) An affidavit stating the highest bonus payment paid to a leased
 41 owner in the spacing unit being integrated prior to filing the integra-
 42 tion application; and

43 (j) A resume of efforts documenting the applicant's good faith efforts
 44 on at least two (2) separate occasions within a period of time no less
 45 than sixty (60) days to inform uncommitted owners of the applicant's in-
 46 tention to develop the mineral resources in the proposed spacing unit
 47 and desire to reach an agreement with uncommitted owners in the proposed
 48 spacing unit. Provided however, if any owner requests no further con-
 49 tact from the applicant, the applicant will be relieved of further obli-
 50 gation to attempt contact to reach agreement with that owner. At least

1 one (1) contact must be by certified U.S. mail sent to an owner's last
2 known address. If an owner is unknown or cannot be found, the applicant
3 must publish a legal notice of its intention to develop and request that
4 the owner contact the applicant in a newspaper of general circulation
5 in the county where the proposed spacing unit is located. The resume
6 of efforts should indicate the applicant has made reasonable efforts to
7 reach an agreement with all uncommitted owners in the proposed spacing
8 unit. Reasonable efforts are met by complying with this subsection.

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

16 (6) An operator who has not been able to obtain consent from sixty-seven
17 percent (67%) of the mineral interest acres in the spacing unit may neverthe-
18 less apply for an integration order under this section if all of the condi-
19 tions set forth in this subsection have been met. The department shall issue
20 an integration order, which shall affect only the unit area described in the
21 application, if it finds that the operator has met all of the following con-
22 ditions:

23 (a) The operator has obtained consent from at least fifty-five percent
24 (55%) of mineral interest acres;

25 (b) The operator has negotiated diligently and in good faith for a pe-
26 riod of at least one hundred twenty (120) days prior to his application
27 for an integration order; and

28 (c) The uncommitted owners in the affected unit shall receive from the
29 operator mineral lease terms and conditions that are no less favorable
30 to the lessee than those set forth in section 47-331(2), Idaho Code.

31 (7) An application for integration shall be subject to the procedures
32 set forth in section 47-328, Idaho Code.

33 (8) An integration order shall be in effect for a term of five (5) years
34 and as long thereafter as oil and gas operations are being conducted by the
35 operator, unless extended by the department upon application of the opera-
36 tor. Any application to amend or extend an integration order shall comply
37 with the notice requirements of section 47-328(3)(b), Idaho Code. For pur-
38 poses of such notice, all parties receiving the base entitlement set forth in
39 subsection (3)(c) of this section shall be considered uncommitted owners.

40 (9) The entry of an integration order does not inhibit the right of min-
41 eral interest owners to pursue claims against the operator for damages to
42 person, property, or water rights.

43 SECTION 8. That Section 47-321, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 47-321. UNIT OPERATIONS. (1) An agreement for the unit or cooperative
46 development or operation of a field, pool, or part thereof, may be submit-
47 ted to the department for approval as being in the public interest or rea-
48 sonably necessary to prevent waste or protect correlative rights. Such ap-
49 proval shall constitute a complete defense to any suit charging violation of

1 any statute of the state relating to trusts and monopolies on account thereof
2 or on account of operations conducted pursuant thereto. The failure to sub-
3 mit such an agreement to the department for approval shall not for that rea-
4 son imply or constitute evidence that the agreement or operations conducted
5 pursuant thereto are in violation of laws relating to trusts and monopolies.

6 (2) The department, upon its own determination or upon application of
7 an owner, shall conduct a hearing to consider the need for unit operation of
8 an entire pool or portion thereof, to increase ultimate recovery of oil and
9 gas from that pool or portion thereof. The department shall issue an order
10 requiring unit operation if it finds that:

11 (a) Unit operation of the pool or portion thereof is reasonably neces-
12 sary to prevent waste or to protect correlative rights;

13 (b) Unit operation of the pool or portion thereof is reasonably neces-
14 sary for maintaining or restoring reservoir pressure, or to implement
15 cycling, water flooding, enhanced recovery, horizontal drilling,
16 ~~de-watering~~ dewatering or a combination of these operations or other
17 operations or objectives to be cooperatively pursued with the goal of
18 increasing the ultimate recovery of oil and gas; and

19 (c) The estimated cost to conduct the unit operation will not exceed the
20 value of the estimated recovery of additional oil and gas resulting from
21 unit operation.

22 (3) An application for requesting an order providing for the operation
23 as a unit of one (1) or more pools or parts thereof in a field shall contain:

24 (a) A plat map showing the proposed unit, the existing spacing units,
25 and the well(s) or wells within the units;

26 (b) The names and addresses of all persons owning mineral interests and
27 working interests in the proposed unit;

28 (c) An affidavit that the applicant, by certified mail, notified all
29 persons owning unleased mineral interests and working interests in the
30 proposed unit at least sixty (60) days prior to filing the application
31 with the department of the applicant's intention to make the applica-
32 tion;

33 (d) A proposed plan of unit operations for the proposed unit that con-
34 tains the information in subsection (5) of this section; and

35 (e) A proposed operating agreement that is consistent with the proposed
36 plan of unit operations.

37 (4) An application for unit operations shall be subject to the proce-
38 dures set forth in section 47-328, Idaho Code.

39 (5) An order for a unit operation must be upon just and reasonable terms
40 and conditions and shall prescribe a plan for unit operations that includes
41 all of the following:

42 (a) A description of the vertical and horizontal limits of the unit
43 area;

44 (b) A statement of the nature of the operation contemplated;

45 (c) A provision for the supervision and conduct of the unit operation
46 that designates an operator of the unit and provides a means to remove
47 the operator and designate a successor operator;

48 (d) A provision to protect correlative rights, allocating to each sep-
49 arately owned tract in the unit area a just and equitable share of the
50 production that is produced and saved from the unit area, other than

1 production used or unavoidably lost in the conduct of the unit opera-
2 tion;

3 (e) A provision for credits and charges to adjust among working inter-
4 est owners in the unit area for their interest in wells, tanks, pumps,
5 machinery, materials and equipment that contribute to the unit opera-
6 tion;

7 (f) A provision establishing how the costs of unit operation, including
8 capital investments and costs of terminating the unit operation, shall
9 be determined and charged to each working interest owner or the inter-
10 est of each owner, including a provision establishing how, when, and by
11 whom the share of unit production allocated to an owner who does not pay
12 the share of those costs charged to that owner or to the interest of that
13 owner may be sold and the proceeds applied to the payment of that owner's
14 share of those costs, and how accounts will be settled upon termination
15 of the unit;

16 (g) A provision, if necessary, for carrying or otherwise financing an
17 owner who elects to be carried or otherwise financed, which allows own-
18 ers who carry or otherwise finance to recover up to three hundred per-
19 cent (300%) of the unit costs attributed to an owner who elects to be
20 carried or otherwise financed payable out of that owner's share of the
21 production;

22 (h) A time when the unit operation is to commence and the manner in
23 which, and the circumstances under which, the unit operation is to ter-
24minate and the unit is to be dissolved; and

25 (i) Additional provisions found to be appropriate to carry on the unit
26 operation, to prevent waste, and to protect correlative rights.

27 (6) An order for a unit operation may provide for a unit operation of
28 less than the whole of a pool as long as the unit area is of size and shape rea-
29sonably required for that purpose and the conduct thereof will have no sig-
30nificant adverse effect upon other portions of the pool.

31 (7) The department, upon its own determination or upon the application
32 of an owner, may for good cause terminate a unit operation and dissolve the
33 unit on just and equitable terms. If not terminated earlier, the unit opera-
34tion shall ~~terminate~~ be terminated upon final cessation of production from
35 the pool or unitized portion thereof, the plugging and abandonment of unit
36 wells and facilities, and reclamation of the surface.

37 (8) An order requiring a unit operation shall not become effective un-
38 til: the plan for unit operations approved by the department has been signed
39 and approved in writing by the owners who, under the department's order, will
40 be required to pay at least sixty-seven percent (67%) of the costs of the unit
41 operation, ~~and also;~~ the plan has been signed and approved in writing by the
42 working interest owners of at least sixty-seven percent (67%) of the produc-
43 tion of the unit operations, ~~;~~ and the department has made a finding in the or-
44der that the plan for unit operations has been so approved.

45 (9) An order providing for unit operation may be amended by an order of
46 the department in the same manner and subject to the same conditions as an
47 original order providing for the unit operation.

48 (10) The department may issue an order for the unit operation of a pool
49 or pools or parts thereof that includes a unit created by a prior order of the
50 department or by voluntary agreement. This subsequent order, in providing

1 for the allocation of the unit's production, must treat first the unit area
2 previously created as a single tract and then allocate, in the same propor-
3 tions as those specified in the prior order, the portion of the new unit's
4 production allocated to the previous unit among the separately owned tracts
5 included in the previously created unit area.

6 (11) The department may approve additions to the unit of portions of a
7 pool not previously included within the unit and may extend the unit area as
8 reasonably necessary to prevent waste or to protect correlative rights. The
9 department may approve exclusions from the unit area as reasonably necessary
10 to prevent waste or to protect correlative rights. An order adding to or ex-
11 cluding from a unit area must be upon just and reasonable terms, which shall
12 be determined by the application of the terms set forth in section 47-320(3),
13 Idaho Code.

14 (a) An order that amends a plan of unit operations and adds an area to
15 a previously established unit shall not become effective until: the
16 amended plan of unit operations has been signed and approved in writing
17 by the owners who will be required to pay at least sixty-seven percent
18 (67%) of the costs of the unit operation in the area to be added, ~~and~~
19 ~~also;~~ the amended plan has been signed and approved in writing by the
20 working interest owners of at least sixty-seven percent (67%) of the
21 production of the unit operations; and the department has made a find-
22 ing in the order that the plan for unit operations has been so approved.

23 (b) An order providing for an exclusion from a unit area may not become
24 effective until: an amended plan of unit operations excluding an area
25 from the unit has been approved in writing by the owners in the origi-
26 nal unit area ~~that~~ who are required to pay at least sixty-seven percent
27 (67%) of the costs of unit operations, ~~and also;~~ the amended plan has
28 been approved in writing by the working interest owners in the original
29 unit area required to pay at least sixty-seven percent (67%) of the pro-
30 duction of the unit operations; and the department has made a finding
31 in the order that the plan for unit operations has been so approved.

32 (12) Operations, including the commencement, drilling or operation of a
33 well upon a portion of a unit area, are deemed conducted on each separately
34 owned tract in the unit area by the owner or owners thereof. That portion
35 of a unit's production allocated to a separately owned tract in a unit area,
36 when produced, is deemed produced from a well drilled on that tract. Opera-
37 tions conducted under an order of the department providing for a unit oper-
38 ation shall constitute fulfillment of expressed or implied obligations of a
39 lease or contract covering lands within the unit area to the extent that com-
40 pliance with those obligations is not possible without a further order of the
41 department.

42 (13) That portion of unit production allocated to a tract and the pro-
43 ceeds of sale for that portion are deemed the property and income of the sev-
44 eral persons to whom or to whose credit that portion is allocated or payable
45 under the order providing for unit operation.

46 (14) A division order or other contract relating to a sale or purchase of
47 production from a separately owned tract or combination of tracts remains in
48 force and applies to oil and gas allocated to the tract until terminated in
49 accordance with provisions of the order providing for unit operation, or in
50 accordance with the terms of such division order or other contract.

1 (15) Except to the extent that all affected parties agree, an order pro-
2 viding for unit operation does not result in a transfer of all or part of a
3 person's title to the oil and gas rights in a tract in the unit area.

4 (16) Except to the extent that all affected parties agree, all property,
5 whether real or personal, that may be acquired in the conduct of a unit oper-
6 ation hereunder is deemed acquired for the account of the owners within the
7 unit area and is deemed the property of the owners in the proportion that the
8 expenses of the unit operation are charged.

9 (17) The formation of a unit and the operation of the unit under an order
10 of the department shall not be in violation of any statute of this state re-
11 lating to trusts, monopolies, contracts or combinations in the restraint of
12 trade.

13 SECTION 9. That Section 47-324, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 47-324. REPORTING REQUIREMENTS. (1) All reporting parties shall file
16 the applicable reports described in this section to the department within
17 the time frames provided. Each report shall be completed on forms prescribed
18 by the department.

19 (a) Monthly production report. Operators shall file monthly produc-
20 tion reports to properly account for all oil, gas and water production
21 and disposition from each well, including the amounts of oil and gas
22 sold from each well. Production reports shall be filed on the required
23 form before the fifteenth day of the second calendar month following the
24 month of production.

25 (b) Gathering facility report. Operators of a gathering facility shall
26 file monthly reports concerning the operation of the plant on the re-
27 quired form before the fifteenth day of the second calendar month fol-
28 lowing the month of operation.

29 (c) Gas processing plant report. The operator of each plant manufac-
30 turing or extracting liquid hydrocarbons, including gasoline, butane,
31 propane, condensate, kerosene or other derivatives from natural gas, or
32 refinery or storage vapors, shall file a report concerning the opera-
33 tion of the plant on the required form before the fifteenth day of the
34 second calendar month following the month of operation.

35 (d) Monthly transportation and storage report. Each gatherer, trans-
36 porter, storer or handler of crude oil or hydrocarbon products, or both,
37 shall file monthly reports showing the required information concerning
38 the transportation operations of the gatherer, transporter, storer or
39 handler before the fifteenth day of the second calendar month following
40 the month of operation. ~~The provisions of this subsection shall not ap-
41 ply to the operator of any refinery, processing plant, blending plant or
42 treating plant if the operator of the well has filed the required form.~~

43 (e) Monthly end purchaser report. ~~Any person who purchases or is enti-
44 tled to purchase any product~~ third-party, arms-length purchaser of oil,
45 gas, or condensate that is ready for refining or other use that is sub-
46 ject to the state of Idaho severance tax from the producer or operator of
47 a lease located in this state shall file monthly reports to account for
48 the purchase of all hydrocarbons, including volume and price paid. End
49 pPurchaser reports shall be filed on the required form before the fif-

1 teenth day of the second calendar month following the month in which the
2 hydrocarbons were purchased. If the end purchaser does not provide the
3 required report, the operator shall provide the information specified
4 in this paragraph by the end of the second calendar month following the
5 month in which the hydrocarbons were purchased.

6 (2) All well test reports. An operator shall file all well test reports
7 within thirty (30) days of completing or recompleting the well. The reports
8 shall include all oil, gas and water produced during all tests.

9 (3) Well production potential test reports. Unless otherwise provided
10 for in this section, each operator of producing gas or oil wells shall test
11 each producing well for a twenty-four (24) hour period every six (6) months
12 and shall record all oil, gas and water volumes, including choke size, pres-
13 sures and any interim bottom hole pressure surveys every six (6) months, re-
14 sulting from the test on the form.

15 (4) Logs. An operator shall file all logs, ~~including but not limited to~~
16 ~~those listed in this subsection, not~~ no later than thirty (30) days after the
17 date the log was run, if run. Such logs include but are not limited to:

18 (a) An open hole electrical, radioactivity or other similar log, or
19 combination of open hole logs of the operator's choice;

20 (b) A gamma ray log from total depth to ground level elevations. The op-
21 erator may require a shorter-logged interval if it determines that the
22 log is unnecessary or impractical or if hole conditions risk jeopardiz-
23 ing the open hole; and

24 (c) A cement bond log across the casing, verifying the formation seal
25 integrity and isolation.

26 (5) Additional reports. An operator shall file a drilling, completion,
27 workover or plugging report within thirty (30) days of completing or plug-
28 ging the well.

29 (6) The department shall report quarterly to the commission on the pro-
30 duced volumes of oil and gas, sales volumes of oil and gas, and the meeting of
31 industry standards.

32 (7) Should an operator fail to comply with this section, the commission
33 may assess a penalty in accordance with section 47-329(3), Idaho Code, or may
34 order the well or oil and gas facilities to be shut-in, after notice, oppor-
35 tunity to cure, and opportunity for a hearing.

36 SECTION 10. That Section 47-326, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 47-326. PUBLIC DATA. (1) Subject only to any applicable provisions of
39 section 47-327, Idaho Code, the following data is public information that
40 shall not be considered trade secret information under chapter 8, title 48,
41 Idaho Code, nor be exempt from public records disclosure under chapter 1, ti-
42 tle 74, Idaho Code. Except as provided in section 47-327, Idaho Code, the de-
43 partment shall, upon receipt of the information, make publicly available all
44 data under this section on its website without requiring any person to submit
45 a public records request:

46 (a) All reports required under section 47-324(1) through (5), Idaho
47 Code;

48 (b) All well survey location plats; and

49 (c) All state-required permits, except seismic data.

1 (2) The department shall provide complete internet access to all docu-
 2 ments in subsection (1) of this section, not granted confidential status, on
 3 its website ~~by no later than December 31, 2017.~~

4 (3) A claim to exempt data from disclosure shall be supported and ac-
 5 companied by a specific citation to the law authorizing an exemption from
 6 disclosure and an explanation of how the data meets the standards for being
 7 withheld from disclosure. When a portion of a record or a portion of a page
 8 in that record is subject to disclosure and the other portion is subject to
 9 a claim that it is exempt from disclosure under this chapter or chapter 1,
 10 title 74, Idaho Code, the person making the claim must clearly identify the
 11 portion claimed as exempt and the portion not claimed as exempt from disclo-
 12 sure at the time of submittal.

13 SECTION 11. That Section 47-327, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 47-327. CONFIDENTIALITY OF WELL AND TRADE INFORMATION. (1) Informa-
 16 tion that shall be held confidential from the public includes logs of a well
 17 granted confidential well status pursuant to subsection (2) of this section,
 18 electrical or radioactivity logs, electromagnetic or magnetic surveys, core
 19 descriptions and analyses, ~~maps, and other geological, geophysical and en-~~
 20 ~~gineering information and geophysically or geologically derived subsurface~~
 21 ~~maps.~~ Seismic data shall remain confidential from all parties at the discre-
 22 tion of the operator due to the nature of purchasing and licensing such data.

23 (2) An operator may request confidential well status at the time of fil-
 24 ing an application for a permit to drill. The information in the application
 25 form itself will not be confidential.

26 (a) Confidential status shall be granted and shall include all perti-
 27 nent data and information relating to drilling completion and testing
 28 the well. Such information shall be kept confidential from the public
 29 for a period of one hundred eighty (180) days after completion of the
 30 well.

31 (b) Well test results shall be kept confidential from the public for a
 32 period of one hundred eighty (180) days after completion of the test.

33 (c) No extensions shall be allowed beyond the one hundred eighty (180)
 34 day confidentiality period.

35 (3) An operator may request that well logs for a well with confidential
 36 well status be held confidential.

37 (a) To obtain confidential treatment of a well log, the operator of the
 38 well shall place the log in an envelope, noting log readings and marked
 39 "confidential."

40 (b) An operator may request, and the department may grant, an addi-
 41 tional six (6) months of confidentiality for well logs.

42 (c) Confidential status for a well log shall terminate six (6) months
 43 after the run date on the log or, in the case of an extension, twelve (12)
 44 months after the run date on the log. Confidential status for a well log
 45 shall not continue for a period in excess of twelve (12) months ~~from the~~
 46 ~~date the log was run on the well~~ after the run date on the log.

47 (4) The state tax commission, the oil and gas conservation commission,
 48 the Idaho ~~geologic~~ geological survey and other state agencies shall share
 49 oil and gas records when necessary for those agencies to carry out their du-

1 ties assigned by law, regardless of whether the records are held confiden-
 2 tial from the public under this section. This sharing of records shall not
 3 render the shared records subject to disclosure to the public under the pub-
 4 lic records act.

5 (5) All state agencies, state employees, contract personnel, temporary
 6 personnel and their agents or affiliates shall be governed by the confiden-
 7 tiality provisions of this section and shall be subject to sections 74-117
 8 and 74-118, Idaho Code, should any information or records protected under
 9 statute be disclosed.

10 SECTION 12. That Section 47-328, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 47-328. RULES FOR COMMISSION -- ADMINISTRATIVE PROCEDURES. (1) The
 13 commission shall have authority to hear rulemaking proceedings, complaints
 14 filed with it pursuant to this chapter and appeals from the ~~oil and gas~~ ad-
 15 ministrators decision on an application filed pursuant to this chapter, and
 16 any other matter the commission decides should be heard by the commission.
 17 The commission may act on its own motion. The commission may prescribe rules
 18 governing the procedure before it, subject to the provisions of the adminis-
 19 trative procedure act, chapter 52, title 67, Idaho Code. ~~Provided however,~~
 20 ~~that no rulemaking except for that done under section 67-5226, Idaho Code,~~
 21 ~~may be conducted for twelve (12) months beginning on July 1, 2017.~~

22 (2) In all cases where a complaint is made by the commission or any per-
 23 son that any provision of this act or any rule or order of the commission
 24 is being violated, the commission shall serve notice of any hearing to be
 25 held on such application or complaint to the interested persons by certified
 26 mail, return receipt requested, or in the same manner as is provided in the
 27 rules of civil procedure for the service of summons in civil actions. Where
 28 the interested person is unknown or cannot be located, the commission shall
 29 serve notice by publishing at least one (1) notice of the hearing to such per-
 30 son in a newspaper of general circulation in the county where the affected
 31 tract is located. Such notice must be sent, delivered or published, as ap-
 32 propriate, at least five (5) business days before the date of the hearing.

33 (3) Except as provided in section 47-316(1)(a), Idaho Code, and sub-
 34 section (2) of this section, any request for an order related to oil and gas
 35 activities within the commission's jurisdiction, other than a civil penalty
 36 proceeding pursuant to section 47-329, Idaho Code, or other enforcement ac-
 37 tion by the department of lands or the commission, shall be made by applica-
 38 tion to the department of lands and processed as provided in this section.

39 (a) The department shall notify the applicant within five (5) business
 40 days of receipt of an application if additional information is required
 41 for the department to evaluate the application.

42 (b) For applications involving an order regarding establishment
 43 or amendment of a spacing unit, unit operations or integration of a
 44 drilling spacing unit, the applicant shall send a copy of the appli-
 45 cation and supporting documents to all known and located uncommitted
 46 mineral interest owners, ~~to~~ all working interest owners within the
 47 proposed spacing unit, and ~~to~~ the respective city or county where the
 48 proposed unit is located. The mailing shall be sent by certified mail
 49 within seven (7) ~~calendar~~ days of filing the application and include

1 notice of the hearing date on which the ~~oil and gas~~ administrator will
2 consider the application. For any uncommitted owners and working in-
3 terest owners who cannot be located, an applicant shall publish notice
4 of any application for an order, notice of hearing and response deadline
5 once in a newspaper of general circulation in the county in which the af-
6 fected property is located and request the department publish notice on
7 its website within seven (7) ~~calendar~~ days of filing of the application.
8 Only an uncommitted owner in the affected unit may file an objection or
9 other response to the application, and the uncommitted owner shall file
10 at least fourteen (14) ~~calendar~~ days before the hearing date provided in
11 the notice.

12 (c) For applications not involving paragraph (b) of this subsection,
13 the department and any uncommitted owner within the area defined in the
14 application may file objections or other responses to the application
15 and shall file at least fourteen (14) ~~calendar~~ days before the hearing
16 date provided in the notice.

17 (d) The ~~oil and gas~~ administrator shall hear the application and make
18 a decision on the application's merits. The ~~oil and gas~~ administrator
19 shall set regular hearing dates. Applications shall be filed at least
20 forty-five (45) ~~calendar~~ days before a desired hearing date. Untimely
21 applications shall be continued until the next hearing. The ~~oil and gas~~
22 administrator may for good cause continue any hearing. The ~~oil and gas~~
23 administrator may appoint a hearing officer, who shall have the power
24 and authority to conduct hearings. Discovery is not permitted. The de-
25 partment may appear and testify at the hearing. When applications are
26 uncontested, the applicant may request, and the ~~oil and gas~~ administra-
27 tor may allow, approval without a hearing based on review of the merits
28 of a verified application and the supporting exhibits.

29 (e) The ~~oil and gas~~ administrator shall issue a written decision on any
30 such application within thirty (30) ~~calendar~~ days of the hearing. The
31 ~~oil and gas~~ administrator's decision shall not be subject to any motion
32 for reconsideration or further review, except for appeal to the commis-
33 sion provided in subsection (4) of this section.

34 (4) The ~~oil and gas~~ administrator's decision on an application or a re-
35 quest for an order may be appealed to the commission by the applicant or any
36 owner who filed an objection or other response to the application within the
37 time required. An appeal must be filed with the ~~oil and gas~~ administrator
38 within fourteen (14) ~~calendar~~ days of the date of issuance of the ~~oil and~~
39 ~~gas~~ administrator's written decision. The date of issuance shall be three
40 (3) ~~calendar~~ days after the ~~oil and gas~~ administrator deposits the decision
41 in the U.S. mail, or the date on which he remits a decision electronically.
42 Such appeal shall include the reasons and authority for the appeal and shall
43 identify any facts in the record supporting the appeal. Any person appeal-
44 ing shall serve a copy of the appeal materials on any other person who par-
45 ticipated in the proceedings, by certified mail, or by personal service. Any
46 person who participated in the proceeding may file a response to the appeal
47 within five (5) business days of service of a copy of the appeal materials.
48 The appellant shall provide the ~~oil and gas~~ administrator with proof of ser-
49 vice of the appeal materials on other persons as required in this section.
50 The commission shall make a decision based on the record as set forth in the

1 written submittals of only the appellant and any other participating quali-
2 fied person, the ~~oil and gas~~ administrator's decision, and any oral argument
3 taken by the commission at an appeal hearing.

4 (5) Appeals to the commission shall be heard at the next regularly
5 scheduled commission hearing, or at a special meeting of the commission if
6 determined by the commission. In no case will a hearing be later than thirty
7 (30) ~~calendar~~ days after the filing of an appeal. The commission may take
8 argument from, but not new testimony of, the appellant and other qualified
9 participating persons at the hearing. The commission shall make a deci-
10 sion on the appeal at the hearing and issue a written order within five (5)
11 business days of the hearing. The prevailing party shall draft a proposed
12 written order and submit it within two (2) business days. The final order of
13 the commission shall not be subject to any motion for reconsideration.

14 (6) If no appeal is filed with the commission within the required time,
15 the decision of the ~~oil and gas~~ administrator shall become the final order.

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

18 (8) For an application or request for an order submitted under subsec-
19 tion (3) of this section, only a person qualified under subsection (4) of
20 this section who has completed the appeal procedures set forth in this sec-
21 tion shall be considered to have exhausted administrative remedies as re-
22 quired in section 67-5271, Idaho Code.

23 (9) Each order shall include a reasoned statement in support of the
24 decision, including a concise statement of facts supporting any findings,
25 a statement of available procedures and time limits for appeals. Findings
26 must be based exclusively on materials in the record. The applicant and any
27 participating qualified person shall be served with a copy of the order. The
28 order shall include or be accompanied by a certificate of service.

29 (10) Every application shall be signed by the applicant or his represen-
30 tative, and his address shall be stated thereon. The signature of the ap-
31 plicant or his representative constitutes a certificate by him that he has
32 read the application and that to the best of his knowledge, information and
33 belief there is good ground to support the same. Each application shall be
34 of such form and content and accompanied by the number of copies required by
35 rule of the commission. Each application shall be accompanied by a fee as es-
36 tablished in statute or rule.

37 SECTION 13. That Section 47-331, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 47-331. OBLIGATION TO PAY ROYALTIES AS ESSENCE OF CONTRACT -- INTER-
40 EST. (1) The obligation arising under an oil and gas lease to pay oil and gas
41 royalties to the royalty owner or the owner's assignee, to deliver oil and
42 gas to ~~a~~ an end purchaser to the credit of the royalty owner or the owner's as-
43 signee, or to pay a portion of the proceeds of the sale of the oil and gas to
44 the royalty owner or the owner's assignee is of the essence in the lease con-
45 tract.

46 (2) Unless otherwise agreed by the parties:

47 (a) A royalty of no less than twelve and one-half percent (12.5%) of
48 the oil and gas or natural gas plant liquids produced and saved shall be

1 paid. The lessee shall make payments in legal tender unless written in-
2 structions for payment in kind have been provided.

3 (b) Royalty shall be due on all production sold from the leased premises
4 except on that consumed for the direct operation of the producing wells
5 and that lost through no fault of the lessee.

6 (3) If the operator under an oil and gas lease fails to pay oil and gas
7 royalties to the royalty owner or the owner's assignee within one hundred
8 twenty (120) days after the first production of oil and gas under the lease is
9 marketed, or within sixty (60) days for all oil and ninety (90) days for all
10 gas produced and marketed thereafter, the unpaid royalties shall bear inter-
11 est at the maximum rate of interest authorized under section 28-22-104(1),
12 Idaho Code, from the date due until paid. Provided, however, that whenever
13 the aggregate amount of royalties due to a royalty owner for a twelve (12)
14 month period is less than one hundred dollars (\$100), the operator may remit
15 the royalties on an annual basis without any interest due.

16 (4) A royalty owner seeking a remedy for failure to make payments un-
17 der the lease or seeking payments under this section may file a complaint
18 with the commission or may bring an action in the district court pursuant to
19 section 47-333, Idaho Code. The prevailing party in any proceeding brought
20 under this section is entitled to recover court costs and reasonable attor-
21 ney's fees.

22 (5) This section does not apply if a royalty owner or the owner's as-
23 signee has elected to take the owner's or assignee's proportionate share of
24 production in kind or if there is a dispute as to the title of the minerals or
25 entitlement to royalties, the outcome of which would affect distribution of
26 royalty payments.

27 SECTION 14. That Section 47-334, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 47-334. USE OF SURFACE LAND BY OWNER OR OPERATOR. (1) For the purposes
30 of this section, the following definitions shall apply:

31 (a) "Surface land" means land upon which oil and gas operations are con-
32 ducted.

33 (b) "Crops" means any growing vegetative matter used for an agricul-
34 tural purpose, including forage for grazing and domesticated animals.

35 (c) "Surface landowner" means a person who owns all or part of the sur-
36 face land as shown by the records of the county in which the surface land
37 is located. Surface landowner does not include the surface landowner's
38 lessee, renter, tenant or other contractually related person.

39 (d) "Surface landowner's property" means a surface landowner's surface
40 land, crops on the surface land and existing improvements on the surface
41 land.

42 (e) "Surface use agreement" means an agreement between an owner or
43 operator and a surface landowner addressing the use and reclamation of
44 surface land owned by the surface landowner and compensation for damage
45 to the surface land caused by oil and gas operations that result in loss
46 of the surface landowner's crops on the surface land, loss of value of
47 existing improvements owned by the surface landowner on the surface
48 land and permanent damage to the surface land.

49 (2) An owner or operator may:

- 1 (a) Enter onto surface land under which the owner or operator holds
2 rights to conduct oil and gas operations; and
- 3 (b) Use the surface land:
- 4 (i) To the extent reasonably necessary to conduct oil and gas op-
5 erations; and
- 6 (ii) Consistent with allowing the surface landowner the great-
7 est possible use of the surface landowner's property, to the ex-
8 tent that the surface landowner's use does not interfere with the
9 owner's or operator's oil and gas operations.
- 10 (3) Except as is reasonably necessary to conduct oil and gas opera-
11 tions, an owner or operator shall:
- 12 (a) Mitigate the effects of accessing the surface landowner's surface
13 land;
- 14 (b) Minimize the interference with the surface landowner's use of the
15 surface landowner's property; and
- 16 (c) Compensate a surface landowner for unreasonable:
- 17 (i) Loss of a surface landowner's crops on the surface land;
- 18 (ii) Loss of value to existing improvements owned by a surface
19 landowner on the surface land; and
- 20 (iii) Permanent damage to the surface land.
- 21 (4) For the purposes of this section, an owner or operator is not re-
22 quired to:
- 23 (a) Obtain location or spacing exceptions from the department or com-
24 mission; or
- 25 (b) Utilize directional or horizontal drilling techniques that are
26 not:
- 27 (i) Technologically feasible;
- 28 (ii) Economically practicable; or
- 29 (iii) Reasonably available.
- 30 (5) The provisions of subsection (2) of this section do not apply to the
31 extent that they conflict with or impair a contractual provision relevant to
32 an owner's or operator's use of surface land for oil and gas operations.
- 33 (6) (a) The provisions of this section do not prevent:
- 34 (i) A person from seeking a remedy allowed by law; or
- 35 (ii) An owner or operator and a surface landowner from addressing
36 the use of surface land for oil and gas operations through a lease,
37 a surface use agreement or another written contract.
- 38 (b) An agreement described in paragraph (a)(ii) of this subsection
39 shall control:
- 40 (i) The use of surface land for oil and gas operations; and
- 41 (ii) Compensation for damage to the surface land caused by oil and
42 gas operations.
- 43 (7) A nonbinding mediation may be requested by a surface landowner and
44 an owner or operator by providing written notice to the other party if they
45 are unable to agree on the amount of damages for unreasonable crop loss on
46 the surface land, unreasonable loss of value to existing improvements owned
47 by the surface landowner on the surface land, or unreasonable permanent dam-
48 age to the surface land. A mediator may be mutually selected by a surface
49 landowner and an owner or operator. The surface landowner and the owner or
50 operator shall equally share the cost of the mediator's services. The medi-

1 ation provisions of this section do not prevent or delay an owner or operator
2 from conducting oil and gas operations in accordance with applicable law.

3 (8) A surface use bond shall be furnished to the department by the owner
4 or operator in accordance with the following provisions:

5 (a) A surface use bond does not apply to surface land where the surface
6 landowner is a party or a successor of a party to:

7 (i) A lease of the underlying privately owned oil and gas;

8 (ii) A surface use agreement applicable to the surface
9 landowner's surface land; or

10 (iii) A contract, waiver or release addressing an owner's or oper-
11 ator's use of the surface landowner's surface land.

12 (b) The minimum surface use bond shall be in the amount of six thousand
13 dollars (\$6,000) per well site and shall be conditioned upon the perfor-
14 mance by the owner or operator of the duty to protect a surface landowner
15 against unreasonable loss of crops on surface land, unreasonable loss
16 of value of existing improvements, and unreasonable permanent damage to
17 surface land.

18 (c) The surface use bond shall be furnished to the department on a form
19 designed by the department after good faith negotiation and prior to
20 the approval of the application for a permit to drill. The mediation
21 process identified in this section may commence and is encouraged to be
22 completed. The department may accept a surface use bond in the form of a
23 cash account or a certificate of deposit. Interest will remain within
24 the account. The department may allow the owner or operator, or a sub-
25 sequent owner or operator, to replace an existing surface use bond with
26 another bond that provides sufficient coverage. The surface use bond
27 shall remain in effect by the operator until released by the department.

28 (d) The surface use bond shall be payable to the department for the use
29 and benefit of the surface landowner, subject to this section. The sur-
30 face use bond shall be released to the owner or operator after the de-
31 partment receives sufficient information that:

32 (i) A surface use agreement or other contractual arrangement has
33 been reached;

34 (ii) Final resolution of the judicial appeal process for an action
35 for unreasonable damages has occurred and damages have been paid;
36 or

37 (iii) Plugging and abandonment of the well is completed.

38 (e) The department shall make a reasonable effort to contact the sur-
39 face landowner prior to the department's release of the surface use
40 bond.

41 SECTION 15. An emergency existing therefor, which emergency is hereby
42 declared to exist, this act shall be in full force and effect on and after
43 July 1, 2023.