

**40-6-8 Field or pool units -- Procedure for establishment -- Operation.**

- (1) The board may hold a hearing to consider the need for the operation as a unit of one or more pools or parts of them in a field.
- (2) The board shall make an order providing for the unit operation of a pool or part of it, if the board finds that:
  - (a) Such operation is reasonably necessary for the purposes of this chapter; and
  - (b) The value of the estimated additional recovery of oil or gas substantially exceeds the estimated additional cost incident to conducting such operations.
- (3) The order shall prescribe a plan for unit operations that shall include:
  - (a) a description of the lands and of the pool or pools or parts of them to be so operated, termed the unit area;
  - (b) a statement of the nature of the operations contemplated;
  - (c) an allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, being the production that is not used in the conduct of operations on the unit area or not unavoidably lost. The allocation shall be in accord with the agreement, if any, of the interested parties. If there is no such agreement, the board shall determine the relative value, from evidence introduced at the hearing of the separately owned tracts in the unit area, exclusive of physical equipment, for development of oil and gas by unit operations, and the production allocated to each tract shall be the proportion that the relative value of each tract so determined bears to the relative value of all tracts in the unit area;
  - (d) a provision for adjustment among the owners of the unit area (not including royalty owners) of their respective investment in wells, tanks, pumps, machinery, materials, equipment, and other things and services of value attributable to the unit operations. The amount to be charged unit operations for any such item shall be determined by the owners of the unit area (not including royalty owners); but if the owners of the unit area are unable to agree upon the amount or correctness, the board shall determine them. The net amount charged against the owner of an interest in a separately owned tract shall be considered expense of unit operation chargeable against his interest in the tract. The adjustments provided for may be treated separately and handled by agreements separate from the unitization agreement;
  - (e) a provision providing how the costs of unit operations, including capital investments, shall be determined and charged to the separately owned tracts and how these costs shall be paid, including a provision providing a procedure for the unit production allocated to an owner who does not pay the share of the cost of unit operations charged to such owner, or the interest of such owner, to be sold and the proceeds applied to the payment of such costs. The operator of the unit shall have a first and prior lien for costs incurred pursuant to the plan of unitization upon each owner's oil and gas rights and his share of unitized production to secure the payment of such owner's proportionate part of the cost of developing and operating the unit area. This lien may be enforced in the same manner as provided by Title 38, Chapter 1a, Part 7, Enforcement of Preconstruction and Construction Liens. For such purposes any nonconsenting owner shall be deemed to have contracted with the unit operator for his proportionate part of the cost of developing and operating the unit area. A transfer or conversion of any owner's interest or any portion of it, however accomplished, after the effective date of the order creating the unit, shall not relieve the transferred interest of the operator's lien on said interest for the cost and expense of unit operations;
  - (f) a provision, if necessary, for carrying or otherwise financing any owner who elects to be carried or otherwise financed, allowing a reasonable interest charge for such service payable out of such owner's share of the production;

- (g) a provision for the supervision and conduct of the unit operations, in respect to which each owner shall have a percentage vote corresponding to the percentage of the costs of unit operations chargeable against the interest of the owner;
  - (h) the time when the unit operations shall commence, and the manner in which, and the circumstances under which, the unit operations shall terminate;
  - (i) such additional provisions that are found to be appropriate for carrying on the unit operations, and for the protection of correlative rights; and
  - (j) the designation of a unit operator.
- (4) No order of the board providing for unit operations of a pool or pools shall become effective unless and until the plan for unit operations prescribed by the division has been approved in writing by those owners who, under the board's order, will be required to pay 70% of the costs of the unit operation, and also by the owners of 70% of the production or proceeds that will be credited to interests which are free of cost, such as royalties, overriding royalties, and production payments, and the board has made a finding, either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been so approved. If the persons owning required percentage of interest in that unit area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, the order shall be ineffective and shall be revoked by the board unless for good cause shown the board extends this time.
- (5) An order providing for unit operations may be amended by an order made by the board in the same manner and subject to the same conditions as an original order providing for unit operations, provided:
- (a) If such an amendment affects only the rights and interests of the owners, the approval of the amendment by the owners of royalty, overriding royalty, production payments and other such interests which are free of costs shall not be required.
  - (b) No such order of amendment shall change the percentage for the allocation of oil and gas as established for any separately owned tract by the original order, or change the percentage for allocation of cost as established for any separately owned tract by the original order.
- (6) The board, by an order, may provide for the unit operation of a pool or pools or parts thereof that embrace a unit area established by a previous order of the division. The order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production allocated shall then be allocated among the separately owned tracts included in the previously established unit area in the same proportions of those specified in the previous order.
- (7) An order may provide for unit operations on less than the whole of a pool where the unit area is of such size and shape as may be reasonably required for that purpose, and the conduct will have no adverse effect upon other portions of the pool.
- (8) All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the unit area by the several owners. The portions of the unit production allocated to a separately owned tract in a unit area shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled. Operations conducted pursuant to an order of the board providing for unit operations shall constitute a fulfillment of all the express or implied obligations for each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the order of the board.
- (9) The portion of the unit production allocated to any tract, and the proceeds from the sale, shall be the property and income of the several owners, subject to the rights of royalty owners,

to whom, or to whose credit, they are allocated or payable under the order providing for unit operations.

- (10) No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations but shall remain in force and apply to oil and gas allocated to such tract until terminated in accordance with the provisions thereof.
- (11) Except to the extent that the parties affected agree and as provided in Subsection (3)(e), no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations hereunder shall be acquired for the account of the owners within the unit area and shall be the property of the owners in the proportion that the expenses of unit operations are charged, unless otherwise provided in the plan of unit operation.
- (12) This section shall apply only to field or pool units and shall not apply to the unitization of interests within a drilling unit as may be authorized and governed under the provisions of Section 40-6-6.

Amended by Chapter 278, 2012 General Session