

55-1305. Commission orders. The order providing for the unitization and unit operation of a pool or a part thereof shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:

- (a) A legal description in terms of surface area of the pool or a part thereof 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 all interest owners. If there is no such agreement as to the allocation, the commission shall determine the relative value 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 value of each tract so determined bears to the total value of all tracts in the unit area;
- (d) a provision for the credits and charges to be made in the adjustment among the working interest owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operations;
- (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 such costs shall be paid, including a provision providing when, how and by whom the unit production allocated to a working interest owner who does not pay the share of the cost of unit operations charged to such owner, or to the interest of such owner, may be sold and the proceeds applied to the payment of such costs;
- (f) a provision whereby a nonoperating working interest owner shall be furnished, but not more often than once a month, reasonably detailed information regarding the nature and amount of the various items of costs and expenses, including capital investments, chargeable against the interest of the nonoperating working interest owners;
- (g) a provision for carrying any nonoperating working interest owner on a limited, carried or net-profits basis, payable out of production, upon terms and conditions determined by the commission to be just and reasonable, or otherwise financing any nonoperating working interest owner who elects to be carried or otherwise financed or who does not meet the owner's financial obligations with the unit and a provision for establishing a reasonable rate of interest and a penalty on all unpaid expenses, in amounts established by rules and regulations adopted by the commission, not to exceed:
 - (1) One hundred percent of the unpaid portion of the owner's share of the cost of aboveground surface equipment beyond the wellhead connection, including, but not limited to, stock tanks, separators, treaters, pumping equipment and piping, plus 100% of the unpaid portion of the owner's share of the cost of operation of the unit, all subject to the rate of interest established;
 - (2) three hundred percent of the unpaid portion of the owner's share of the costs and expenses of drilling wells in the unitized area, including staking, well site preparation, rigging up, or drilling, and reworking, deepening or plugging back, testing and completing wells; and
 - (3) three hundred percent of the unpaid portion of the owner's share of the costs and expenses of underground pipeline systems, expenses for injected substances and any other nonrecoupable expenses incurred. All interest and penalties prescribed under this subsection shall be paid from the nonpaying interest owner's share of production;
- (h) a provision for the supervision and conduct of the unit operations, including the selection, removal or substitution of an operator from among the working interest owners to conduct the unit operations;
- (i) a provision for a voting procedure for the decision of matters to be decided by the working interest owners in respect to which each working interest owner shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the interest of such owner;
- (j) the time when the unit operations shall commence and the manner in which, and the circumstances under which, the unit operations shall terminate and for the settlement of accounts upon such termination;
- (k) a provision specifying the particular records the unit operator shall keep and the detailed accounting procedure that the unit operator shall follow. A plan of unitization shall not be considered fair and reasonable if it contains a provision for operating charges which include any part of district or central office expense other than reasonable overhead charges; and
- (l) such additional provisions that are found to be appropriate for carrying on the unit operations and for the protection of correlative rights.

No order of the commission providing for unit operations upon a finding pursuant to subsection (a)(1) of K.S.A. 55-1304, and amendments thereto, shall become effective unless and until the plan for unit operations prescribed by the commission has been approved in writing by those persons who, under the commission's order, will be required to pay at least 63% of the costs of the unit operation, and also by the owners of at least 63% of the production or proceeds thereof that will be credited to royalties, excluding overriding royalties or other like interests which are carved out of the leasehold estate, and the commission 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. No order of the commission providing for unit operations upon a finding pursuant to subsection (a)(2) of K.S.A. 55-1304, and amendments thereto, shall become effective unless and until the plan for unit operations prescribed by the commission has been approved in writing by those persons who, under the commission's order, will be required to pay at least 63% of the costs of the unit operation, and also by the owners of at least 75% of the production or proceeds thereof that will be credited to royalties, excluding overriding royalties or other like interests which are carved out of the leasehold estate, and the commission 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 plan for unit operations has not been so approved at the time the order providing for unit operations is made, the commission shall upon application and notice hold such supplemental hearings as may be required to determine if and when the plan for unit operations has been so approved. If the persons owning the required percentage of interest in the 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, such order shall cease to be of further force and effect and shall be revoked by the commission, except that the commission may extend the six-month period not to exceed 60 days for good cause shown.

An order providing for unit operations may be amended by the commission in the same manner and subject to the same conditions as are necessary or required for an original order providing for unit operations, except that: (a) If such an amendment affects only the rights and interest of the working interest owners, the approval of the amendment by the royalty owners shall not be required; and (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, except with the consent of all persons owning oil and gas rights in such tract; no such order shall change the percentage for the allocation of cost as established for any separately owned tract by the original order, except with the consent of all working interest owners in such tract.

The commission by an order may provide for the unit operation of a pool or a part thereof that embraces a unit area previously established either by voluntary agreement or order of the commission. Such order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the part of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportions as those specified in the previous agreement or order.

An order may provide for the unit operation of 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 thereof will have no material adverse effect upon other parts of the pool.

History: L. 1967, ch. 299, § 5; L. 1995, ch. 148, § 1; L. 2000, ch. 15, § 2; Mar. 30.