

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 301, As Amended

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO OIL AND GAS; AMENDING SECTION 47-329, IDAHO CODE, TO REDESIGNATE  
2 THE SECTION; AMENDING SECTION 47-318, IDAHO CODE, TO REDESIGNATE THE  
3 SECTION AND TO ADD AND REVISE DEFINITIONS; AMENDING SECTION 47-315,  
4 IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 47-328, IDAHO  
5 CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT THE WASTE OF OIL AND  
6 GAS IS PROHIBITED; AMENDING SECTION 47-327, IDAHO CODE, TO REDESIGNATE  
7 THE SECTION AND TO PROVIDE FOR JURISDICTION OVER CERTAIN LANDS; AMEND-  
8 ING SECTION 47-317, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE  
9 THE MEMBERSHIP, QUALIFICATIONS AND TERMS OF THE OIL AND GAS CONSERVA-  
10 TION COMMISSION, TO PROVIDE A DUTY FOR THE OIL AND GAS ADMINISTRATOR,  
11 TO PROVIDE FOR ADDITIONAL LEGAL COUNSEL AND TO REVISE CODE REFERENCES;  
12 AMENDING SECTION 47-319, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO  
13 REVISE THE DUTIES OF THE OIL AND GAS CONSERVATION COMMISSION AND THE  
14 DEPARTMENT OF LANDS; REPEALING SECTION 47-316, IDAHO CODE, RELATING  
15 TO THE WASTE OF OIL AND GAS; AMENDING SECTION 47-320, IDAHO CODE, TO  
16 REDESIGNATE THE SECTION, TO REVISE PROVISIONS REGARDING A PERMIT TO  
17 DRILL A WELL, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORREC-  
18 TIONS; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW  
19 SECTION 47-317, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR DRILLING LOCA-  
20 TIONS; AMENDING SECTION 47-321, IDAHO CODE, TO REDESIGNATE THE SECTION  
21 AND TO PROVIDE FOR WELL SPACING REQUIREMENTS; AMENDING CHAPTER 3, TITLE  
22 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-319, IDAHO CODE,  
23 TO PROVIDE REQUIREMENTS FOR SETBACKS; AMENDING SECTION 47-322, IDAHO  
24 CODE, TO REDESIGNATE THE SECTION, TO REMOVE LANGUAGE REGARDING STEM  
25 PROGRAM DONATIONS AND OBJECTORS, TO REVISE THE REQUIRED MAJORITY FOR  
26 INTEGRATION AND TO PROVIDE AN EXCEPTION, TO REMOVE LANGUAGE REGARDING  
27 TRADE SECRETS, TO REVISE PROVISIONS REGARDING NONCONSENTING WORKING  
28 INTEREST OWNERS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
29 47-323, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE THE REQUIRED  
30 MAJORITY FOR UNIT OPERATION, TO REVISE A CODE REFERENCE AND TO MAKE  
31 TECHNICAL CORRECTIONS; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE  
32 ADDITION OF A NEW SECTION 47-322, IDAHO CODE, TO PROVIDE REQUIREMENTS  
33 FOR OIL AND GAS METERING SYSTEMS; AMENDING CHAPTER 3, TITLE 47, IDAHO  
34 CODE, BY THE ADDITION OF A NEW SECTION 47-323, IDAHO CODE, TO PROVIDE RE-  
35 QUIREMENTS FOR COMMINGLING PRODUCTION FROM OIL AND GAS WELLS; AMENDING  
36 CHAPTER 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-324,  
37 IDAHO CODE, TO PROVIDE FOR REPORTING REQUIREMENTS AND TO PROVIDE FOR  
38 VIOLATIONS; AMENDING SECTION 47-326, IDAHO CODE, TO REDESIGNATE THE  
39 SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 3, TITLE  
40 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-326, IDAHO CODE, TO  
41 PROVIDE THAT CERTAIN DATA IS PUBLIC AND SHALL BE AVAILABLE ON THE INTER-  
42 NET AND TO PROVIDE A PROCEDURE TO CLAIM AN EXEMPTION; AMENDING CHAPTER  
43 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-327, IDAHO  
44 CODE, TO PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION, TO PROVIDE  
45

1 EXCEPTIONS AND TO PROVIDE PENALTIES FOR VIOLATIONS; AMENDING SECTION  
 2 47-324, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR DUTIES OF  
 3 THE OIL AND GAS ADMINISTRATOR AND THE COMMISSION, TO PLACE A MORATORIUM  
 4 ON CERTAIN RULEMAKING, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL  
 5 CORRECTIONS; AMENDING SECTION 47-325, IDAHO CODE, TO REDESIGNATE THE  
 6 SECTION, TO PROVIDE FOR THE VIOLATION OF COMMISSION ORDERS AND TO MAKE  
 7 TECHNICAL CORRECTIONS; AMENDING SECTION 47-330, IDAHO CODE, TO REVISE  
 8 THE DEFINITION OF GROSS INCOME AND TO REVISE THE DISTRIBUTION OF FUNDS  
 9 COLLECTED BY THE TAX COMMISSION; AMENDING CHAPTER 3, TITLE 47, IDAHO  
 10 CODE, BY THE ADDITION OF A NEW SECTION 47-331, IDAHO CODE, TO PROVIDE FOR  
 11 THE OBLIGATION TO PAY ROYALTIES AND TO PROVIDE FOR TERMS, REQUIREMENTS  
 12 AND CIVIL REMEDIES; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE  
 13 ADDITION OF A NEW SECTION 47-332, IDAHO CODE, TO REQUIRE CERTAIN REPORTS  
 14 TO ROYALTY OWNERS AND TO PROVIDE FOR RECORD RETENTION; AMENDING CHAPTER  
 15 3, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-333, IDAHO  
 16 CODE, TO AUTHORIZE A CIVIL ACTION BY A ROYALTY OWNER FOR AN ACCOUNTING  
 17 AND ROYALTY PAYMENT; AMENDING CHAPTER 3, TITLE 47, IDAHO CODE, BY THE  
 18 ADDITION OF A NEW SECTION 47-334, IDAHO CODE, TO PROVIDE FOR THE USE  
 19 OF SURFACE LAND BY OWNERS AND OPERATORS AND TO PROVIDE FOR MEDIATION  
 20 AND A BOND REQUIREMENT; AMENDING SECTION 74-108, IDAHO CODE, TO EXEMPT  
 21 CERTAIN RECORDS FROM THE OIL AND GAS CONSERVATION COMMISSION AND THE  
 22 DEPARTMENT OF LANDS FROM PUBLIC RECORDS DISCLOSURE AND TO MAKE TECHNICAL  
 23 CORRECTIONS; AMENDING SECTION 42-233, IDAHO CODE, TO REVISE A CODE  
 24 REFERENCE; AMENDING SECTION 42-4003, IDAHO CODE, TO REVISE CODE REFER-  
 25 ENCES; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING AN  
 26 EFFECTIVE DATE.

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

28 SECTION 1. That Section 47-329, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30 47-~~329~~309. TITLE. This act may be cited as the Oil and Gas Conservation  
 31 Act.

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

34 47-~~318~~310. DEFINITIONS. Unless the context otherwise requires, the  
 35 terms defined in this section shall have the following meaning when used in  
 36 this act. The use of the plural includes the singular, and the use of the  
 37 singular includes the plural.

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

39 (2) "Confidential well status" refers to a well for which the operator  
 40 has applied and received confidential status from the commission pursuant to  
 41 section 47-327, Idaho Code. Information about a confidential well is exempt  
 42 from disclosure as to the public, but not with regard to the commission or  
 43 other state authority.

44 (b) "Condensate" means the liquid produced by the condensation of a  
 45 vapor or gas either after it leaves the reservoir or while still in the reser-  
 46 voir.

1           (e4) "Correlative rights" means the opportunity of each owner in a  
2 pool to produce his just and equitable share of oil and gas in a pool without  
3 waste.

4           (d5) "Department" means the Idaho department of lands.

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

9           (7) "Exploration" means activities related to the various geological  
10 and geophysical methods used to detect and determine the existence and ex-  
11 tent of hydrocarbon deposits. The activities related to the search for oil  
12 and gas include without limitation aerial, geological and geophysical sur-  
13 veys and studies, seismic work, core drilling and the drilling of test wells.

14           (e8) "Field" means the general area underlaid by one (1) or more pools.

15           (~~f~~9) "Gas" means any petroleum hydrocarbon existing in the gaseous  
16 phase, including condensate because it originally existed in the gaseous  
17 phase natural gas, which is a mixture of hydrocarbons and varying quantities  
18 of non-hydrocarbons that exist either in the gaseous phase or in solution  
19 with crude oil in natural underground reservoirs.

20           (10) "Gathering facility" means a facility that receives gathering  
21 lines from wells, commingles the produced materials, and then sends those  
22 materials to a processing facility.

23           (~~g~~11) "Market value" means the price at the time of sale, in cash or  
24 on terms reasonably equivalent to cash, for which the oil ~~or~~ and gas should  
25 bring in a competitive and open market under all conditions requisite to a  
26 fair sale, the buyer and seller each acting prudently and knowledgeably,  
27 and assuming the price is not affected by undue stimulus from either party.  
28 The costs of marketing, transporting and processing oil and gas produced  
29 shall be borne entirely by the producer, and such cost shall not reduce the  
30 ~~producer's severance~~ tax directly or indirectly.

31           (~~h~~12) "MCF" means one thousand cubic feet of gas.

32           (13) "Mineral interest" means the right to explore, drill or produce oil  
33 or gas lying beneath the surface of property.

34           (14) "Natural gas liquids" means hydrocarbons that are gaseous in the  
35 reservoir, but will separate out in liquid form at the pressures and temper-  
36 atures at which separators normally operate. The liquids consist of varying  
37 proportions of butane, propane, pentane and heavier fractions, with little  
38 or no methane or ethane.

39           (15) "Natural gas plant liquids" means hydrocarbon compounds in raw  
40 gas that are separated as liquids at gas processing plants, fractionating  
41 plants, and cycling plants. Natural gas plant liquids obtained include  
42 ethane, liquefied petroleum gases (propane and the butanes), and pentanes  
43 plus any heavier hydrocarbon compounds. Component products may be fraction-  
44 ated or mixed.

45           (16) "Occupied structure" means a building with walls and a roof within  
46 which individuals live or customarily work.

47           (~~i~~17) "Oil" or " means and includes crude oil" means petroleum oil  
48 and other hydrocarbons, regardless of gravity, that are produced at the  
49 wellhead in liquid form by ordinary production methods and are not the  
50 result of gas condensation before or after it leaves the reservoir and the

1 liquid hydrocarbons known as distillate or condensate recovered or ex-  
 2 tracted from gas.

3 (j18) "Oil and gas" means oil or gas or both. "Oil and gas" refers not  
 4 only to oil and gas in combination with each other but also generally to oil,  
 5 gas, casinghead gas, casinghead gasoline, gas-distillate or other hydrocar-  
 6 bons, or any combination or combinations thereof, which may be found in or  
 7 produced from a common source or supply of oil, oil and gas, or gas-distil-  
 8 late.

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

12 (20) "Oil and gas facility" means equipment or improvements used or in-  
 13 stalled at an oil and gas location for the exploration, production, with-  
 14 drawal, gathering, treatment or processing of oil or natural gas.

15 (21) "Oil and gas operations" means operations to explore for, develop  
 16 or produce oil and gas.

17 (k22) "Operator" means any duly authorized person who is in charge of  
 18 the development of a lease, pool, or spacing or unitized area, or the opera-  
 19 tion of a producing well.

20 (l23) "Owner" means the person who has the right to drill into and pro-  
 21 duce from a pool and to appropriate the oil ~~or~~ and gas that he produces there-  
 22 from, either for himself or for himself and others.

23 (m24) "Person" means any natural person, corporation, association,  
 24 partnership, receiver, trustee, executor, administrator, guardian, fidu-  
 25 ciary or other representatives of any kind, and includes any government or  
 26 any political subdivision of any agency thereof. The masculine gender, in  
 27 referring to a person, includes the feminine and the neuter genders.

28 (n25) "Pool" means an underground reservoir containing a common accumu-  
 29 lation of oil ~~or~~ and gas ~~or both~~. Each zone of a structure that is completely  
 30 separated from any other zone in the same structure is a pool.

31 (26) "Processing facility" means a facility that refines gas and liquid  
 32 hydrocarbons.

33 (o27) "Producer" means the owner of a well or wells capable of producing  
 34 oil ~~or~~ and gas ~~or both~~.

35 (p28) "Reservoir" means a subsurface volume of porous and permeable  
 36 rock in which oil ~~or~~ and gas ~~has~~ may have accumulated.

37 (29) "Royalty owner" means any owner of an interest in an oil and gas  
 38 lease that entitles him to share in the production of the oil and gas under  
 39 the lease.

40 (30) "Tract" means an expanse of land representing the surface expres-  
 41 sion of the underlying mineral estate that includes oil and gas rights. A  
 42 tract:

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

47 (b) Is of no particular size;

48 (c) May be irregular in form;

49 (d) Is contiguous;

50 (e) May lie in more than one (1) township or one (1) section;

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

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

5        ~~(§31)~~ "Uncommitted owner" means one who is not leased or otherwise con-  
 6        tractually obligated to the operator.

7        ~~(§32)~~ "Waste" as applied to gas shall include the escape, blowing or re-  
 8        leasing, directly or indirectly, into the open air of gas from wells produc-  
 9        tive of gas only, or gas in an excessive or unreasonable amount from wells  
 10       producing oil or both oil and gas; and the production of gas in quantities or  
 11       in such manner as will unreasonably reduce reservoir pressure or unreason-  
 12       ably diminish the quantity of oil ~~or~~ and gas that might ultimately be pro-  
 13       duced; excepting gas that is reasonably necessary in the drilling, complet-  
 14       ing and testing of wells and in furnishing power for the production of wells.

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

26       ~~(§34) The use of the plural includes the singular, and the use of the~~  
 27       ~~singular includes the plural~~ "Workover" means an operation in which a well is  
 28       reentered for the purpose of maintaining or repairing it.

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

31       ~~47-315311.~~ PUBLIC INTEREST. It is declared to be in the public inter-  
 32       est to foster, encourage and promote the development, production and uti-  
 33       lization of natural resources of oil and gas in the state of Idaho in such  
 34       a manner as will prevent waste; to provide for uniformity and consistency  
 35       in the regulation of the production of oil and gas throughout the state of  
 36       Idaho; to authorize and to provide for the operations and development of oil  
 37       and gas properties in such a manner that a greater ultimate recovery of oil  
 38       and gas may be obtained and that the correlative rights of all owners be fully  
 39       protected; to encourage, authorize and provide for voluntary agreements for  
 40       cycling, recycling, pressure maintenance and secondary recovery operations  
 41       in order that the greatest possible economic recovery of oil and gas may be  
 42       obtained within the state to the end that the land owners, the royalty own-  
 43       ers, the producers and the general public may realize and enjoy the greatest  
 44       possible good from these vital natural resources.

45       SECTION 4. That Section 47-328, Idaho Code, be, and the same is hereby  
 46       amended to read as follows:

1           47-~~328~~312. ACT NOT CONSTRUED TO RESTRICT PRODUCTION -- WASTE PROHIB-  
 2 ITED. It is not the intent or purpose of this law to require the proration or  
 3 distribution or the production of oil and gas among the fields of Idaho on the  
 4 basis of market demand. This act shall never be construed to require, per-  
 5 mit, or authorize the commission or any court to make, enter, or enforce any  
 6 order, rule, regulation or judgment requiring restriction of production due  
 7 to market demand of any pool or of any well (except as provided in section  
 8 47-~~319~~315, Idaho Code, hereof) to an amount less than the well or pool can  
 9 produce without waste in accordance with sound engineering practices. The  
 10 waste of oil and gas or either of them as defined in this chapter is hereby  
 11 prohibited.

12           SECTION 5. That Section 47-327, Idaho Code, be, and the same is hereby  
 13 amended to read as follows:

14           47-~~327~~313. LANDS SUBJECT TO THIS ACT. This act shall apply to all lands  
 15 located in the state of Idaho lawfully subject to its police power, and shall  
 16 apply to, however owned, including any lands owned or administered by any  
 17 government or any agency or political subdivision thereof, including lands  
 18 of the United States, or ~~to~~ lands subject to the jurisdiction of the United  
 19 States over which the state of Idaho has police power, except to the degree  
 20 that it is inharmonious with the uses, activities or regulations of the  
 21 United States, and furthermore, the same shall apply to any lands committed  
 22 to a unit agreement approved by the secretary of the interior or his duly  
 23 authorized representative, except that the commission may, with respect to  
 24 such unit agreement, suspend the application of this act or any part of this  
 25 act so long as the conservation of oil and gas and the prevention of waste as  
 26 in this act provided is accomplished under such unit agreements, but such  
 27 suspension shall not relieve any operator from making such reports as may be  
 28 required by the commission with respect to operations under any such unit  
 29 agreement.

30           SECTION 6. That Section 47-317, Idaho Code, be, and the same is hereby  
 31 amended to read as follows:

32           47-~~317~~314. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS --  
 33 LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created  
 34 an oil and gas conservation commission of the state of Idaho within the de-  
 35 partment of lands. The commission shall consist of ~~five~~ (5) the director of  
 36 the department of lands, a county commissioner as described in this section,  
 37 and three (3) members appointed by the governor with the advice and consent  
 38 of the senate.

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

45           (b) The members appointed by the governor shall serve at the pleasure of  
 46 the governor. ~~One (1) member and shall be knowledgeable in oil and gas~~  
 47 matters, ~~one (1) member shall be knowledgeable in geological matters,~~

1        ~~one (1) member shall be knowledgeable in water matters, one (1) member~~  
 2        ~~shall be a private landowner who owns mineral rights with the surface in~~  
 3        ~~a county with oil and gas activity and one (1) member shall be a private~~  
 4        ~~landowner who does not own mineral rights have a college degree in geo-~~  
 5        ~~sciences or engineering and at least ten (10) years of experience in the~~  
 6        ~~oil and gas industry. The governor shall appoint the three (3) techni-~~  
 7        ~~cal expert members: one (1) member for a term of four (4) years, one (1)~~  
 8        ~~member for a term of three (3) years, and one (1) member for a term of two~~  
 9        ~~(2) years. Thereafter, the term of office of each appointed member of~~  
 10       ~~the commission shall be four (4) years. A vacancy shall be filled by ap-~~  
 11       ~~pointment for the unexpired term in the same manner provided for an ap-~~  
 12       ~~pointment to the full term.~~

13       (2) ~~The term of office of each appointed member of the commission shall~~  
 14       ~~be four (4) years, except that upon July 1, 2013, the governor shall appoint~~  
 15       ~~one (1) member for a term of one (1) year, one (1) member for a term of two (2)-~~  
 16       ~~years, one (1) member for a term of three (3) years and two (2) members for~~  
 17       ~~terms of four (4) years. After the initial appointment, the governor shall~~  
 18       ~~appoint members to serve in office for a term of four (4) years commencing on~~  
 19       ~~July 1. A vacancy shall be filled by appointment for the unexpired term in~~  
 20       ~~the same manner provided for an appointment to the full term~~ On July 1, 2017,  
 21       the terms of the existing members of the commission appointed under this sec-  
 22       tion shall terminate, with the sole exception that such commission shall de-  
 23       cide any administrative actions filed prior to July 1, 2017. Actions filed  
 24       on and after July 1, 2017, shall be decided by the new commission established  
 25       under this section.

26       (3) The commission shall annually elect a chairman and a vice chairman  
 27       from their membership. Such officers shall hold their respective offices  
 28       until their successors are elected. If a vacancy occurs in either office,  
 29       the commission shall elect a member to fill such office for the remainder of  
 30       the term.

31       (4) The commission shall meet at least annually and thereafter on dates  
 32       set by the commission. A majority of the ~~voting~~ members shall constitute a  
 33       quorum.

34       (5) The members of the commission appointed by the governor or selected  
 35       by the county commissioners shall be compensated as provided in section  
 36       59-509(n), Idaho Code.

37       (6) ~~Unless the commission appoints another person to be the secretary~~  
 38       ~~of the commission, the director~~ The oil and gas administrator of the depart-  
 39       ment of lands shall be the secretary ~~of~~ for the commission.

40       (7) The department of lands shall have the power to exercise, under the  
 41       general control and supervision of the commission, all of the rights, powers  
 42       and duties vested by law in the commission, except those provided in sections  
 43       ~~47-324328~~ and ~~47-325329~~ (~~e3~~), Idaho Code.

44       (8) The commission shall have and is hereby given jurisdiction and au-  
 45       thority over all persons and property, public and private, necessary to en-  
 46       force the provisions of this act, and shall have power and authority to make  
 47       and enforce rules, regulations and orders, and do whatever may reasonably be  
 48       necessary to carry out the provisions of this act. Any delegation of author-  
 49       ity to any other state officer, board or commission to administer any and all  
 50       other laws of this state relating to the conservation of oil and gas is hereby

1 rescinded and withdrawn and such authority is hereby unqualifiedly con-  
 2 ferred upon the commission, as herein provided. The commission shall follow  
 3 procedures on applications as provided in section 47-~~324328~~, Idaho Code, ex-  
 4 cept as provided in sections 47-~~320316~~(1) (a) and 47-~~325329~~(e3), Idaho Code.

5 (9) It is the intent of the legislature to occupy the field of the regu-  
 6 lation of oil and gas exploration and production with the limited exception  
 7 of the exercise of planning and zoning authority granted cities and counties  
 8 pursuant to chapter 65, title 67, Idaho Code.

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

14 (a) The commission will ~~notice~~ notify the respective city or county  
 15 with jurisdiction upon receipt of an application and will remit, elec-  
 16 tronically, a copy of all application materials.

17 (b) No ordinance, resolution, requirement or standard of a city, county  
 18 or political subdivision, except a state agency with authority, shall  
 19 actually or operationally prohibit the extraction of oil and gas; pro-  
 20 vided however, that extraction may be subject to reasonable local ordi-  
 21 nance provisions, not repugnant to law, which protect public health,  
 22 public safety, public order or which prevent harm to public infrastruc-  
 23 ture or degradation of the value, use and enjoyment of private property.  
 24 Any ordinance regulating extraction enacted pursuant to chapter 65,  
 25 title 67, Idaho Code, shall provide for administrative permitting un-  
 26 der conditions established by ordinance, not to exceed twenty-one (21)  
 27 days, unless extended by agreement of the parties or upon good cause  
 28 shown.

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

37 (11) The commission may sue and be sued in its administration of this  
 38 act in any state or federal district court in the state of Idaho having juris-  
 39 diction of the parties or of the subject matter.

40 (12) The attorney general shall act as the legal advisor of the commis-  
 41 sion and represent the commission in all court proceedings and in all pro-  
 42 ceedings before it, and in any proceeding to which the commission may be a  
 43 party before any department of the federal government. The commission may  
 44 retain additional counsel to assist the attorney general and, for such pur-  
 45 pose, may employ any funds available under this act.

46 SECTION 7. That Section 47-319, Idaho Code, be, and the same is hereby  
 47 amended to read as follows:

48 ~~47-319315. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (1) This~~  
 49 ~~act shall apply to all lands located in the state, however owned, including~~



1 ~~any lands owned or administered by any government or any agency or political~~  
 2 ~~subdivision thereof, over which the state under its police power, has juris-~~  
 3 ~~isdiction.~~

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

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

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

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

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

24 (a) Identification of ownership of oil ~~or~~ and gas wells, producing  
 25 leases, tanks, plants, structures, and facilities for the transporta-  
 26 tion or refining of oil and gas;

27 (b) The taking and preservation of samples ~~and the making and filing~~  
 28 ~~with the commission of true and correct copies of well logs and direc-~~  
 29 ~~tional surveys both in form and content as prescribed by the commission;~~  
 30 ~~provided however, that logs of exploratory or wildcat wells marked con-~~  
 31 ~~fidential shall be subject to disclosure according to chapter 1, title~~  
 32 ~~74, Idaho Code, and shall be kept confidential by the commission for a~~  
 33 ~~period of one (1) year from the date of filing the log with the commis-~~  
 34 ~~sion. And provided that the commission may use any well logs and direc-~~  
 35 ~~tional surveys in any action to enforce the provisions of this chapter~~  
 36 ~~or any order or rule adopted hereunder. And provided further, that af-~~  
 37 ~~ter four (4) months from the effective date of this act, the commission~~  
 38 ~~may require the owner of a well theretofore drilled for oil or gas to~~  
 39 ~~file within four (4) months of such order a true and correct copy of the~~  
 40 ~~log or logs of such well and findings, if taken or analyzed;~~

41 (c) The drilling, casing, operation and plugging of wells in such man-  
 42 ner as to prevent: (i) the escape of oil ~~or~~ and gas out of one (1) pool  
 43 into another; (ii) the detrimental intrusion of water into an oil ~~or~~ and  
 44 gas pool that is avoidable by efficient operations; (iii) the pollution  
 45 of fresh water supplies by oil, gas, or saltwater; (iv) blow-outs, cav-  
 46 ings, seepages, and fires; and (v) waste as ~~hereinabove~~ defined in sec-  
 47 tion 47-310, Idaho Code;

48 (d) The taking of tests of oil ~~or~~ and gas wells;

49 (e) The furnishing of a reasonable performance bond with good and suf-  
 50 ficient surety, conditioned upon the performance of the duty to comply

1 with the requirements of this law and the regulations of the commission  
2 with respect to the drilling, maintaining, operating and plugging of  
3 each well drilled for oil ~~or~~ and gas;

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

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

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

11 (i) That every person who produces oil and gas in the state keep and  
12 maintain for a period of five (5) years complete and accurate records  
13 of the quantities thereof, which records, or certified copies thereof,  
14 shall be available for examination by the commission or its agents at  
15 all reasonable times within said period, and that every such person file  
16 with the commission such reasonable reports as it may prescribe with re-  
17 spect to such oil ~~or~~ and gas production. ~~Provided however, that reports~~  
18 ~~of oil and gas production shall be kept confidential by the commission~~  
19 ~~and shall be exempt from disclosure pursuant to section 74-107, Idaho~~  
20 ~~Code, for a period of six (6) months from the date of filing the ini-~~  
21 ~~tial production report for a well with the commission, and thereafter~~  
22 ~~all production reports for a well shall be subject to disclosure pur-~~  
23 ~~suant to chapter 1, title 74, Idaho Code; and~~

24 (j) The filing of reports ~~of~~ or plats with the commission that it may  
25 prescribe.

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

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

32 (b) The shooting and treatment of wells;

33 (c) The spacing or locating of wells;

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

37 (e) The disposal of ~~saltwater~~ produced water and oil field wastes.

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

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

44 (9) ~~The commission is authorized to share such records or information~~  
45 ~~with the Idaho geological survey. When any such record or information is ex-~~  
46 ~~empt from disclosure under the Idaho public records act, section 74-101, et~~  
47 ~~seq., Idaho Code, the sharing of such record or information between the oil~~  
48 ~~and gas conservation commission, the Idaho department of lands, the Idaho~~  
49 ~~geological survey shall not render the shared information subject to disclo-~~  
50 ~~sure to other persons under the Idaho public records act, section 74-101, et~~

1 ~~seq., Idaho Code. Notwithstanding the foregoing, nothing in this section~~  
 2 ~~shall be construed to limit the sharing of such records or information by~~  
 3 ~~the oil and gas commission and the Idaho department of lands with other state~~  
 4 ~~agencies, when authorized by law~~ The commission shall require the department  
 5 to perform the following activities on an annual basis:

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

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

8 and

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

11 SECTION 8. That Section 47-316, Idaho Code, be, and the same is hereby  
 12 repealed.

13 SECTION 9. That Section 47-320, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 ~~47-320~~316. PERMIT TO DRILL OR TREAT A WELL -- FEES. (1) It shall be  
 16 unlawful to commence operations for the drilling or treating of a well for  
 17 oil ~~or~~ and gas without first giving notice to the commission of intention to  
 18 drill or treat and without first obtaining a permit from the commission under  
 19 such rules and regulations as may be reasonably prescribed by the commission  
 20 and by paying to the commission a filing and service fee as provided by this  
 21 section.

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

26 (b) The department shall notify the applicant within five (5) business  
 27 days of receipt of an application if the application is administra-  
 28 tively incomplete, and in such notice shall identify missing items to be  
 29 supplied in order to make the application complete.

30 (c) The department shall notify the director of the department of wa-  
 31 ter resources regarding permits to drill or treat a well. The director  
 32 of water resources shall have ten (10) business days from the date of  
 33 receipt of such notification from the department of lands to recommend  
 34 conditions he believes necessary to protect fresh water supplies.

35 (d) Applications submitted under this section shall be posted on the  
 36 department of lands's website for ten (10) calendar days for a written  
 37 comment period.

38 (e) The department of lands shall approve or deny the application to  
 39 drill or treat a well ~~within fifteen (15) business days of receipt of a~~  
 40 ~~complete application~~ in a timely and efficient manner.

41 (f) The department's decision made under this section may be appealed  
 42 to the commission by the applicant pursuant to the procedure in section  
 43 ~~47-324(d), (e), (f) and (g)~~ 328(4) through (7), Idaho Code.

44 (2) Upon issuance of any permit, a copy thereof, including any limi-  
 45 tations, conditions, controls, rules or regulations attached thereto for  
 46 the protection of fresh water supplies as required in section ~~47-319~~315,  
 47 Idaho Code, shall be forwarded to the director of the department of water  
 48 resources.

- 1 (3) The department shall collect the following fees, which shall be re-
- 2 mitted to the state treasurer for deposit in the oil and gas conservation
- 3 fund and shall be used exclusively to pay the costs and expenses incurred in
- 4 connection with the administration and enforcement of this chapter:
- 5 (a) Application for a permit to drill a well .....\$2,000
- 6 (b) Application to deepen a well ..... 500
- 7 (c) Application to plug and abandon a well, if not completed within one
- 8 (1) year from issuance of permit to drill a well ..... 500
- 9 (d) Application to treat a well, if separate from an application for a
- 10 permit to drill a well .....1,000
- 11 (e) Application to construct a pit, if separate from an application for
- 12 a permit to drill a well .....1,500
- 13 (f) Application to directionally drill a well, if separate from an ap-
- 14 plication for a permit to drill a well .....1,000
- 15 (g) Application for a multiple zone completion, if separate from an ap-
- 16 plication for a permit to drill a well .....1,000
- 17 (h) Application for an exceptional well location, if separate from an
- 18 application for a permit to drill a well .....1,300
- 19 (i) Application to change the size, ~~or~~ shape or location of a spacing
- 20 unit .....1,300
- 21 (j) Application to establish or amend a field-wide spacing order .1,300
- 22 (k) Application for an integration order .....1,300
- 23 (l) Application for a unitization order .....1,300
- 24 (m) Application for a seismic operations permit covering less than
- 25 twelve (12) miles of a 2-D survey ..... 800
- 26 (n) Application for a seismic operations permit covering between
- 27 twelve (12) miles and twenty-four (24) miles of a 2-D survey, or up to
- 28 seventy-two (72) square miles of a 3-D survey .....2,000
- 29 (o) Application for a seismic operations permit covering more than
- 30 twenty-four (24) miles of a 2-D survey, or more than seventy-two (72)
- 31 square miles of a 3-D survey .....2,500

32 SECTION 10. That Chapter 3, Title 47, Idaho Code, be, and the same is  
 33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 34 ignated as Section 47-317, Idaho Code, and to read as follows:

35 47-317. DRILLING LOCATIONS. (1) To prevent or assist in preventing  
 36 the waste of oil and gas, to avoid drilling unnecessary wells or to protect  
 37 correlative rights, the department may, on its own motion or on the appli-  
 38 cation of an interested person, and after notice and opportunity for hear-  
 39 ing, issue an order establishing drilling units on a statewide basis, or for  
 40 defined areas within the state, or for oil and gas wells drilled to varying  
 41 depths.

42 (2) An order establishing drilling units shall comply with section  
 43 47-318(2), Idaho Code.

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

47 (a) Oil wells. Every well drilled for oil shall be located in the center  
 48 of a drilling unit consisting of a forty (40) acre governmental quar-  
 49 ter-quarter section or lot or tract, or combination of lots and tracts

1 substantially equivalent thereto, with a tolerance of two hundred (200)  
2 feet in any direction from the center location.

3 (i) No oil well shall be drilled less than nine hundred ninety  
4 (990) feet from any other well drilling to and capable of produc-  
5 ing oil from the same pool; and

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

9 (b) Vertical gas wells. Every vertical well drilled for gas shall be  
10 located in a drilling unit consisting of either a one hundred sixty  
11 (160) acre governmental quarter section or lot or tract, or combination  
12 of lots and tracts substantially equivalent thereto, or a six hundred  
13 forty (640) acre governmental section or lot or tract, or combination  
14 of lots or tracts substantially equivalent thereto. A vertical gas  
15 well located on a one hundred sixty (160) acre drilling unit shall have  
16 a minimum setback of three hundred thirty (330) feet to the exterior  
17 boundaries of the quarter section. A vertical gas well located on a six  
18 hundred forty (640) acre drilling unit shall have a minimum setback of  
19 six hundred sixty (660) feet to the exterior boundaries of the govern-  
20 mental section.

21 (i) No gas well shall be drilled less than nine hundred ninety  
22 (990) feet from any other well drilling to and capable of produc-  
23 ing gas from the same pool; and

24 (ii) No gas well shall be completed in a known pool unless it is lo-  
25 cated more than nine hundred ninety (990) feet from any other well  
26 completed in and capable of producing gas from the same pool.

27 (c) Horizontal wells. Every horizontal well drilled shall be located  
28 in a drilling unit consisting of a six hundred forty (640) acre gov-  
29 ernmental section or lot or tract, or combination of lots or tracts  
30 substantially equivalent thereto. No portion of the completed interval  
31 of a horizontal lateral shall be closer than six hundred sixty (660)  
32 feet to a section boundary or uncommitted tract within a unit. Ex-  
33 cept for wells in federal exploratory units or in secondary units, the  
34 completed interval shall be no closer than one thousand three hundred  
35 twenty (1,320) feet to any horizontal well or vertical well completed in  
36 the same formation.

37 (d) Notice. After drilling, testing and completing a well that meets  
38 the location requirements in paragraphs (a), (b) or (c) of this subsec-  
39 tion, but prior to producing that well, an operator shall provide notice  
40 and opportunity for hearing for the proposed drilling unit. In addition  
41 to any other notice required by statute or rule, the operator shall pro-  
42 vide notice of the proposed drilling unit by certified mail to all un-  
43 committed owners within the proposed drilling unit. The department may  
44 authorize drilling units upon application, notice and an opportunity  
45 for hearing as provided in section 47-328, Idaho Code. However, prior  
46 to establishing a drilling unit for a well that meets the location re-  
47 quirements in paragraph (a), (b) or (c) of this subsection, the depart-  
48 ment may grant a permit to drill that provides only the notice required  
49 in section 47-316, Idaho Code.

1 (4) An operator may request a change in the size, shape or location of  
2 a drilling unit under this section, as provided in section 47-318(6), Idaho  
3 Code. Request may be made for drilling units that are:

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

5 (b) Larger or smaller than one hundred sixty (160) acres for gas; or

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

8 (5) Changes to drilling units may be authorized upon application, no-  
9 tice and an opportunity for hearing as provided in section 47-328, Idaho  
10 Code. To authorize a change, the department shall find that such change  
11 would assist in preventing the waste of oil and gas, avoid drilling of unnec-  
12 essary wells, or protect correlative rights. In addition to any other notice  
13 required by statute or rule, an operator shall provide proper notice and a  
14 copy of the application to all uncommitted owners within the proposed unit  
15 and to all other parties an operator reasonably believes may be affected. In  
16 establishing drilling units under this section, the department shall review  
17 the drilling unit's size, shape and location based on the application, any  
18 supporting exhibits, and evidence introduced at a hearing.

19 SECTION 11. That Section 47-321, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 ~~47-321318.~~ WELL SPACING UNITS. (1) The department shall promptly es-  
22 tablish spacing units for each pool except in those pools that have been de-  
23 veloped to such an extent that it would be impracticable or unreasonable to  
24 establish spacing units at the existing stage of development.

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

35 (a) If, at the time of a hearing to establish spacing units, there is  
36 not sufficient evidence from which to determine the area that can be  
37 efficiently and economically drained by one (1) well, the department  
38 ~~may~~ shall make an order establishing temporary spacing units for the or-  
39 derly development of the pool, pending the obtaining of the information  
40 required to determine what the ultimate permanent spacing should be.

41 (b) Where the federal agency administering federal minerals that would  
42 otherwise be included in a spacing unit has not leased or has failed to  
43 offer such federal minerals for lease ~~in accordance with 30 U.S.C. sec-~~  
44 ~~tion 226 and 43 CFR 3120.1-2(a) auction for at least six (6) months,~~ such  
45 federal minerals may be excluded from the unit upon application or upon  
46 the department's own determination.

47 (3) Except where circumstances, geologic or otherwise, affecting the  
48 orderly development of a pool reasonably require, spacing units shall be of  
49 approximately uniform size and shape for the entire pool. The department may

1 establish spacing units of different sizes or shapes for different parts of  
2 a pool or may grant exceptions to the size, ~~or~~ shape or location of any spac-  
3 ing unit or units or may change the sizes or shape of one (1) or more existing  
4 spacing units.

5 (4) An order establishing spacing units shall direct that no more  
6 than one (1) well shall be drilled to and produced from the common source  
7 of supply on any unit, and shall specify the location for the drilling of a  
8 well thereon, in accordance with a reasonably uniform spacing pattern, with  
9 necessary exceptions for wells drilled or drilling at the time of the fil-  
10 ing of the application. If the department finds that a well drilled at the  
11 prescribed location would not be likely to produce in paying quantities, or  
12 that surface conditions would substantially add to the burden or hazard of  
13 drilling such well, or for other good cause shown, the department is autho-  
14 rized to make an order permitting the well to be drilled at a location other  
15 than that prescribed by such spacing order. Application for an exception  
16 shall be filed with the department and may be granted where it is shown that  
17 good cause for such exception exists and that consent to such exception has  
18 been given by the operators of all drilling units directly or diagonally off-  
19 setting the drilling unit for which an exception is requested, and, as to the  
20 lands upon which drilling units have not been established, by the majority of  
21 mineral interest owners of those lands which would be included in directly  
22 or diagonally offsetting drilling units under said order, if said order were  
23 extended to include such additional lands.

24 (5) An order establishing spacing units for a pool shall cover all lands  
25 determined or believed to be underlaid by such pool, and may be modified by  
26 the department from time to time to include additional lands determined to  
27 be underlaid by such pool or to exclude lands determined not to be underlaid  
28 by such pool. A pool may be divided into zones and a spacing unit for each  
29 zone may be established if necessary to prevent or assist in preventing waste  
30 of oil and gas, to avoid drilling unnecessary wells, to protect correlative  
31 rights or to facilitate production through the use of innovative drilling  
32 and completion methods. The spacing units within the zone may differ in size  
33 and shape from spacing units in any other zone but may not be smaller than  
34 the maximum area that can be efficiently and economically drained by one (1)  
35 well.

36 (6) An order establishing spacing units may be modified by the depart-  
37 ment to change the size, ~~or~~ shape or location of one (1) or more spacing  
38 units, or to permit the drilling of additional wells on a reasonably uniform  
39 pattern. An operator may apply for changes to the size, shape or location of  
40 spacing units. The department will review applications to change the size,  
41 shape or location of spacing units.

42 (7) Upon the filing of an application to establish spacing units, no ad-  
43 ditional well shall be commenced for production from the pool until the or-  
44 der establishing spacing units has been made, unless the commencement of the  
45 well is authorized by order of the department.

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

1 47-319. SETBACKS. (1) Except as provided in this section, oil and gas  
2 wells, tank batteries and gas processing facilities shall not be constructed  
3 within three hundred (300) feet of an existing occupied structure, domestic  
4 water well, canal, ditch or the natural or ordinary high-water mark of sur-  
5 face waters or within fifty (50) feet of a highway.

6 (2) Oil and gas wells, tank batteries and gas processing facilities may  
7 be constructed less than three hundred (300) feet but more than one hundred  
8 (100) feet from an existing occupied structure, domestic water well, canal  
9 or ditch if the operator has obtained the express written permission from the  
10 owner of the occupied structure, domestic water well, canal or ditch.

11 SECTION 13. That Section 47-322, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 47-~~322~~320. INTEGRATION OF TRACTS -- ORDERS OF DEPARTMENT. (~~a~~1) When  
14 two (2) or more separately owned tracts are embraced within a spacing unit,  
15 or when there are separately owned interests in all or a part of a spacing  
16 unit, the interested persons may integrate their tracts or interests for the  
17 development and operation of the spacing unit. In the absence of voluntary  
18 integration, the department, upon the application of any owner in that pro-  
19 posed spacing unit, shall order integration of all tracts or interests in  
20 the spacing unit for drilling of a well or wells, development and operation  
21 thereof and for the sharing of production therefrom. The department, as a  
22 part of the order establishing a spacing unit or units, may prescribe the  
23 terms and conditions upon which the royalty interests in the unit or units  
24 shall, in the absence of voluntary agreement, be deemed to be integrated  
25 without the necessity of a subsequent separate order integrating the royalty  
26 interests. Each such integration order shall be upon terms and conditions  
27 that are just and reasonable.

28 (~~b~~2) All operations, including, but not limited to, the commencement,  
29 drilling, or operation of a well upon any portion of a spacing unit for which  
30 an integration order has been entered, shall be deemed for all purposes the  
31 conduct of such operations upon each separately owned tract in the spacing  
32 unit by the several owners thereof. That portion of the production allocated  
33 to a separately owned tract included in a spacing unit shall, when produced,  
34 be deemed, for all purposes, to have been actually produced from such tract  
35 by a well drilled thereon.

36 (~~e~~3) Each such integration order shall authorize the drilling, equip-  
37 ping, and operation, or operation, of a well on the spacing unit; shall  
38 designate an operator for the integrated unit; shall prescribe the time and  
39 manner in which all the owners in the spacing unit may elect to participate  
40 therein; and shall make provision for the payment by all those who elect to  
41 participate therein, of the reasonable actual cost thereof, plus a reason-  
42 able charge for supervision and interest. Each such integration order shall  
43 provide for the ~~five~~ following options:

44 (~~i~~a) Working interest owner. An owner who elects to participate as  
45 a working interest owner shall pay the proportionate share of the ac-  
46 tual costs of drilling and operating a well allocated to the owner's in-  
47 terest in the spacing unit. Working interest owners who share in the  
48 costs of drilling and operating the well are entitled to their respec-  
49 tive shares of the production of the well. The operator of the inte-



1 grated spacing unit and working interest owners shall enter into a joint  
2 operating agreement approved by the department in the integration or-  
3 der.

4 (~~ii~~b) Nonconsenting working interest owner. An owner who refuses to  
5 share in the risk and actual costs of drilling and operating the well,  
6 but desires to participate as a working interest owner, is a noncon-  
7 senting working interest owner. ~~Nonconsenting working interest owners~~  
8 ~~are entitled to their respective shares of the production of the well,~~  
9 ~~not to exceed one-eighth (1/8) royalty, until t~~The operator of the in-  
10 tegrated spacing unit ~~has recovered~~ shall be entitled to recover a risk  
11 penalty of up to three hundred percent (300%) of the nonconsenting work-  
12 ing interest owner's share of the cost of drilling and operating the  
13 well under the terms set forth in the integration order. After all the  
14 costs have been recovered by the consenting owners in the spacing unit,  
15 the nonconsenting owner is entitled to his respective shares of the pro-  
16 duction of the well, and shall be liable for his pro rata share of costs  
17 as if the nonconsenting owner had originally agreed to pay the costs of  
18 drilling and operating the well. The operator of the integrated spac-  
19 ing unit and nonconsenting working interest owners shall enter into a  
20 joint operating agreement approved by the department in the integration  
21 order.

22 (~~iii~~c) Leased. An owner may enter into a lease with the operator of the  
23 integrated spacing unit under the terms and conditions in the integra-  
24 tion order. The owner shall receive one-eighth (1/8) royalty. The op-  
25 erator of an integrated spacing unit shall pay a leasing owner the same  
26 bonus payment per acre as the operator originally paid to other owners  
27 in the spacing unit prior to the issuance of the integration order.

28 ~~(iv) Objector. If an owner objects to any participation or involvement~~  
29 ~~of any kind in the unit, such owner may elect to be an objector. An ob-~~  
30 ~~jecting owner's interest will be deemed leased under the terms and con-~~  
31 ~~ditions in the integration order. The owner shall receive one-eighth~~  
32 ~~(1/8) royalty. Provided however, an objecting owner may elect to have~~  
33 ~~any funds to which he would otherwise be entitled transferred to the~~  
34 ~~STEM action center.~~

35 (~~v~~d) Deemed leased. If an owner fails to make an election within the  
36 election period set forth in the integration order, such owner's inter-  
37 est will be deemed leased under the terms and conditions in the integra-  
38 tion order. The owner shall receive one-eighth (1/8) royalty. The op-  
39 erator of an integrated spacing unit shall pay a leasing owner the same  
40 bonus payment per acre as the operator originally paid to other owners  
41 in the spacing unit prior to the issuance of the integration order.

42 ~~If one or more of the owners shall drill, equip and operate, or operate, or~~  
43 ~~pay the costs of drilling, equipping and operating, or operating, a well for~~  
44 ~~the benefit of another person as provided for in an order of integration,~~  
45 ~~then such owners or owner shall be entitled to the share of production from~~  
46 ~~the spacing unit accruing to the interest of such other person, exclusive of~~  
47 ~~a royalty not to exceed one-eighth (1/8) of the production, until the market~~  
48 ~~value of such other person's share of the production, exclusive of such roy-~~  
49 ~~alty, equals the sums payable by or charged to the interest of such other per-~~  
50 ~~son. If there is a dispute as to the costs of drilling, equipping, or oper-~~

1 ~~ating a well, the department shall determine such costs. In instances where~~  
 2 ~~a well is completed prior to the integration of interests in a spacing unit,~~  
 3 ~~the sharing of production shall be from the effective date of the integra-~~  
 4 ~~tion, except that, in calculating costs, credit shall be given for the value~~  
 5 ~~of the owner's share of any prior production from the well.~~

6 (d4) An application for an order integrating the tracts or interests in  
 7 a spacing unit shall substantially contain and be limited to only the follow-  
 8 ing:

9 (ia) The applicant's name and address;

10 (ib) A description of the spacing unit to be integrated;

11 (iic) A geologic statement concerning the likely presence of hydrocar-  
 12 bons;

13 (id) A statement that the proposed drill site is leased;

14 (ie) A statement of the proposed operations for the spacing unit, in-  
 15 cluding the name and address of the proposed operator;

16 (if) A proposed joint operating agreement and a proposed lease form;

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

19 (iih) An affidavit indicating that at least ~~fifty-five~~ sixty-seven  
 20 percent (~~55~~67%) of the mineral interest acres in the spacing unit sup-  
 21 port the integration application by leasing or participating as a work-  
 22 ing interest owner;

23 (ixi) An affidavit stating the highest bonus payment paid to a leased  
 24 owner in the spacing unit being integrated prior to filing the integra-  
 25 tion application; and

26 (\*j) A resume of efforts documenting the applicant's good faith ef-  
 27 forts on at least two (2) separate occasions within a period of time  
 28 no less than sixty (60) days to inform uncommitted owners of the ap-  
 29 plicant's intention to develop the mineral resources in the proposed  
 30 spacing unit and desire to reach an agreement with uncommitted owners  
 31 in the proposed spacing unit. Provided however, if any owner requests  
 32 no further contact from the applicant, the applicant will be relieved  
 33 of further obligation to attempt contact to reach agreement with that  
 34 owner. At least one (1) contact must be by certified U.S. mail sent  
 35 to an owner's last known address. If an owner is unknown or cannot be  
 36 found, the applicant must publish a legal notice of its intention to  
 37 develop and request that the owner contact the applicant in a newspaper  
 38 in the county where the proposed spacing unit is located. The resume of  
 39 efforts should indicate the applicant has made reasonable efforts to  
 40 reach an agreement with all uncommitted owners in the proposed spacing  
 41 unit. Reasonable efforts are met by complying with this subsection.

42 An application shall not be required to be in any particular format. An ap-  
 43 plication shall not be denied or refused for incompleteness if it complies  
 44 substantially with the foregoing informational requirements.

45 (e5) At the time the integration application is filed with the depart-  
 46 ment, the applicant shall certify that, for uncommitted owners who are un-  
 47 known or cannot be found, a notice of the application was published in a news-  
 48 paper in the county where the proposed spacing unit is located. Each pub-  
 49 lished notice shall include notice to the affected uncommitted owner of the

1 opportunity to respond to the application, and the deadline by which a re-  
2 sponse must be filed with the department.

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

10 (g) An operator who has not been able to obtain consent from sixty-  
11 seven percent (67%) of the mineral interest acres in the spacing unit may  
12 nevertheless apply for an integration order under this section if all of the  
13 conditions set forth in this subsection have been met. The department shall  
14 issue an integration order, which shall affect only the unit area described  
15 in the application, if it finds that the operator has met all of the following  
16 conditions:

17 (a) The operator has obtained consent from at least fifty-five percent  
18 (55%) of mineral interest acres;

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

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

25 (7) An application for integration shall be subject to the procedures  
26 set forth in section 47-324328, Idaho Code.

27 SECTION 14. That Section 47-323, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 47-323321. UNIT OPERATIONS. (1) An agreement for the unit or coopera-  
30 tive development or operation of a field, pool, or part thereof, may be sub-  
31 mitted to the department for approval as being in the public interest or rea-  
32 sonably necessary to prevent waste or protect correlative rights. Such ap-  
33 proval shall constitute a complete defense to any suit charging violation of  
34 any statute of the state relating to trusts and monopolies on account thereof  
35 or on account of operations conducted pursuant thereto. The failure to sub-  
36 mit such an agreement to the department for approval shall not for that rea-  
37 son imply or constitute evidence that the agreement or operations conducted  
38 pursuant thereto are in violation of laws relating to trusts and monopolies.

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

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

46 (b) Unit operation of the pool or portion thereof is reasonably nec-  
47 essary for maintaining or restoring reservoir pressure, or to imple-  
48 ment cycling, water flooding, enhanced recovery, horizontal drilling,  
49 de-watering or a combination of these operations or other operations or

1 objectives to be cooperatively pursued with the goal of increasing the  
2 ultimate recovery of oil and gas; and

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

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

8 (a) A plat map showing the proposed unit, the existing spacing units,  
9 and well(s) within the units;

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

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

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

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

21 (4) An application for unit operations shall be subject to the proce-  
22 dures set forth in section 47-~~324~~328, Idaho Code.

23 (5) An order for a unit operation must be upon just and reasonable terms  
24 and conditions and shall prescribe a plan for unit operations that include  
25 all of the following:

26 (a) A description of the vertical and horizontal limits of the unit  
27 area;

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

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

32 (d) A provision to protect correlative rights, allocating to each sep-  
33 arately owned tract in the unit area a just and equitable share of the  
34 production that is produced and saved from the unit area, other than  
35 production used or unavoidably lost in the conduct of the unit opera-  
36 tion;

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

41 (f) A provision establishing how the costs of unit operation, including  
42 capital investments and costs of terminating the unit operation, shall  
43 be determined and charged to each working interest owner or the inter-  
44 est of each owner, including a provision establishing how, when and by  
45 whom the share of unit production allocated to an owner who does not pay  
46 the share of those costs charged to that owner or to the interest of that  
47 owner may be sold and the proceeds applied to the payment of that owner's  
48 share of those costs, and how accounts will be settled upon termination  
49 of the unit;

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

7 (h) A time when the unit operation is to commence and the manner in  
8 which, and the circumstances under which, the unit operation is to ter-  
9minate and the unit is to be dissolved; and

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

12 (6) An order for a unit operation may provide for a unit operation of  
13 less than the whole of a pool ~~so~~ as long as the unit area is of size and shape  
14 reasonably required for that purpose and the conduct thereof will have no  
15 significant adverse effect upon other portions of the pool.

16 (7) The department, upon its own determination or upon the application  
17 of an owner, may for good cause terminate a unit operation and dissolve the  
18 unit on just and equitable terms. If not terminated earlier, the unit op-  
19 eration shall terminate upon final cessation of production from the pool or  
20 unitized portion thereof, the plugging and abandonment of unit wells and fa-  
21cilities, and reclamation of the surface.

22 (8) An order requiring a unit operation shall not become effective un-  
23 til the plan for unit operations approved by the department has been signed  
24 and approved in writing by the owners who, under the department's order, will  
25 be required to pay at least ~~fifty-five~~ sixty-seven percent (~~55~~67%) of the  
26 costs of the unit operation, and also signed and approved in writing by the  
27 working interest owners of at least ~~fifty-five~~ sixty-seven percent (~~55~~67%)  
28 of the production of the unit operations, and the department has made a find-  
29 ing in the order that the plan for unit operations has been so approved.

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

33 (10) The department may issue an order for the unit operation of a pool  
34 or pools or parts thereof that includes a unit created by a prior order of the  
35 department or by voluntary agreement. This subsequent order, in providing  
36 for the allocation of the unit's production, must treat first the unit area  
37 previously created as a single tract and then allocate, in the same propor-  
38 tions as those specified in the prior order, the portion of the new unit's  
39 production allocated to the previous unit among the separately owned tracts  
40 included in the previously created unit area.

41 (11) The department may approve additions to the unit of portions of a  
42 pool not previously included within the unit and may extend the unit area as  
43 reasonably necessary to prevent waste or to protect correlative rights. The  
44 department may approve exclusions from the unit area as reasonably necessary  
45 to prevent waste or to protect correlative rights. An order adding to or ex-  
46 cluding from a unit area must be upon just and reasonable terms.

47 (a) An order that amends a plan of unit operations and adds an area  
48 to a previously established unit shall not become effective until  
49 the amended plan of unit operations has been signed and approved in  
50 writing by the owners who will be required to pay at least ~~fifty-five~~

1 sixty-seven percent (5567%) of the costs of the unit operation in the  
2 area to be added, and also signed and approved in writing by the working  
3 interest owners of at least ~~fifty-five~~ sixty-seven percent (5567%) of  
4 the production of the unit operations, and the department has made a  
5 finding in the order that the plan for unit operations has been so ap-  
6 proved.

7 (b) An order providing for an exclusion from a unit area may not become  
8 effective until an amended plan of unit operations excluding an area  
9 from the unit has been approved in writing by the owners in the origi-  
10 nal unit area that are required to pay at least ~~fifty-five~~ sixty-seven  
11 percent (5567%) of the costs of unit operations, and also approved in  
12 writing by the working interest owners in the original unit area re-  
13 quired to pay at least ~~fifty-five~~ sixty-seven percent (5567%) of the  
14 production of the unit operations, and the department has made a finding  
15 in the order that the plan for unit operations has been so approved.

16 (12) Operations, including the commencement, drilling or operation of a  
17 well upon a portion of a unit area, are deemed conducted on each separately  
18 owned tract in the unit area by the owner or owners thereof. That portion  
19 of a unit's production allocated to a separately owned tract in a unit area,  
20 when produced, is deemed produced from a well drilled on that tract. Opera-  
21 tions conducted under an order of the department providing for a unit oper-  
22 ation shall constitute fulfillment of expressed or implied obligations of a  
23 lease or contract covering lands within the unit area to the extent that com-  
24 pliance with those obligations is not possible without a further order of the  
25 department.

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

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

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

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

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

47 SECTION 15. That Chapter 3, Title 47, Idaho Code, be, and the same is  
48 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
49 ignated as Section 47-322, Idaho Code, and to read as follows:

1           47-322. OIL AND GAS METERING SYSTEMS. (1) Each meter shall be prop-  
2 erly constructed, maintained, repaired and operated to continually and ac-  
3 curately register the quantity of oil and gas produced from the well.

4           (2) The meter shall be installed, used and operated according to indus-  
5 try standards and guidelines promulgated by the American petroleum insti-  
6 tute, American gas association, and the gas processors association that are  
7 in effect at the time of installation of the meter. If standards conflict,  
8 the most current American petroleum institute standard shall apply.

9           (3) All custody transfer meters and all allocation meters used in the  
10 allocation of custody transfer volumes shall be calibrated by a third party  
11 at least quarterly in each calendar year. The records of calibrations shall  
12 be maintained by the operator of the meter for at least five (5) years and  
13 copies shall be submitted to the department.

14           SECTION 16. That Chapter 3, Title 47, Idaho Code, be, and the same is  
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
16 ignated as Section 47-323, Idaho Code, and to read as follows:

17           47-323. COMMINGLING OF PRODUCTION. A producer shall not, prior to me-  
18 tering, commingle production from two (2) or more oil and gas wells without  
19 prior approval from the department after notice and opportunity for hearing.

20           SECTION 17. That Chapter 3, Title 47, Idaho Code, be, and the same is  
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
22 ignated as Section 47-324, Idaho Code, and to read as follows:

23           47-324. REPORTING REQUIREMENTS. (1) All reporting parties shall file  
24 the applicable reports described in this section to the department within  
25 the time frames provided. Each report shall be completed on forms prescribed  
26 by the department.

27           (a) Monthly production report. Operators shall file monthly produc-  
28 tion reports to properly account for all oil, gas and water production  
29 and disposition from each well, including the amounts of oil and gas  
30 sold from each well. Production reports shall be filed on the required  
31 form before the fifteenth day of the second calendar month following the  
32 month of production.

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

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

43           (d) Monthly transportation and storage report. Each gatherer, trans-  
44 porter, storer or handler of crude oil or hydrocarbon products, or both,  
45 shall file monthly reports showing the required information concerning  
46 the transportation operations of the gatherer, transporter, storer or  
47 handler before the fifteenth day of the second calendar month following

1 the month of operation. The provisions of this subsection shall not ap-  
2 ply to the operator of any refinery, processing plant, blending plant or  
3 treating plant if the operator of the well has filed the required form.

4 (e) Monthly purchaser report. Any person who purchases or is entitled  
5 to purchase any product that is subject to the state of Idaho severance  
6 tax from the producer or operator of a lease located in this state shall  
7 file monthly reports to account for the purchase of all hydrocarbons,  
8 including volume and price paid. Purchaser reports shall be filed on  
9 the required form before the fifteenth day of the second calendar month  
10 following the month in which the hydrocarbons were purchased.

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

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

20 (4) Logs. An operator shall file all logs, including but not limited  
21 to those listed in this subsection, not later than thirty (30) days after the  
22 date the log was run, if run:

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

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

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

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

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

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

41 SECTION 18. That Section 47-326, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 ~~47-326325.~~ 47-326325. FALSIFICATION OF RECORDS -- LIMITATION OF ACTIONS. (¶1)  
44 Any person who, for the purpose of evading this act or any rule, regulation  
45 or order of the commission shall make or cause to be made any false entry in  
46 any report, record, account, or memorandum required by this act, or by any  
47 such rule, regulation or order, or shall omit, or cause to be omitted, from  
48 any such report, record, account, or memorandum, full, true and correct en-  
49 tries as required by this act, or by any such rule, regulation or order, or



1 shall remove from this state or destroy, mutilate, alter or falsify any such  
2 record, account, or memorandum, shall be guilty of a misdemeanor and, upon  
3 conviction, shall be subject to a fine of not more than five thousand dollars  
4 (\$5,000) or imprisonment for a term not exceeding twelve (12) months, or to  
5 both such fine and imprisonment.

6 (b~~2~~) No suit, action or other proceeding based upon a violation of this  
7 act or any rule, regulation or order of the commission hereunder shall be  
8 commenced or maintained unless same shall have been commenced within one (1)  
9 year from date of the alleged violation. Provided however, the provisions  
10 of this subsection shall not apply to actions governed by the provisions of  
11 chapter 52, title 67, Idaho Code.

12 SECTION 19. That Chapter 3, Title 47, Idaho Code, be, and the same is  
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
14 ignated as Section 47-326, Idaho Code, and to read as follows:

15 47-326. PUBLIC DATA. (1) Subject only to any applicable provisions of  
16 section 47-327, Idaho Code, the following data is public information that  
17 shall not be considered trade secret information under chapter 8, title 48,  
18 Idaho Code, nor be exempt from public records disclosure under chapter 1, ti-  
19 tle 74, Idaho Code. Except as provided in section 47-327, Idaho Code, the de-  
20 partment shall, upon receipt of the information, make publicly available all  
21 data under this section on its website without requiring any person to submit  
22 a public records request:

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

25 (b) All well plats; and

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

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

30 (3) A claim to exempt data from disclosure shall be supported and ac-  
31 companied by a specific citation to the law authorizing an exemption from  
32 disclosure and an explanation of how the data meets the standards for being  
33 withheld from disclosure. When a portion of a record or a portion of a page  
34 in that record is subject to disclosure and the other portion is subject to  
35 a claim that it is exempt from disclosure under this chapter or chapter 1,  
36 title 74, Idaho Code, the person making the claim must clearly identify the  
37 portion claimed as exempt and the portion not claimed as exempt from disclo-  
38 sure at the time of submittal.

39 SECTION 20. That Chapter 3, Title 47, Idaho Code, be, and the same is  
40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
41 ignated as Section 47-327, Idaho Code, and to read as follows:

42 47-327. CONFIDENTIALITY OF WELL AND TRADE INFORMATION. (1) Informa-  
43 tion that shall be held confidential from the public includes logs of a well  
44 granted confidential well status pursuant to subsection (2) of this section,  
45 electrical or radioactivity logs, electromagnetic or magnetic surveys, core  
46 descriptions and analyses, maps, and other geological, geophysical and en-  
47 gineering information. Seismic data shall remain confidential from all par-

1 ties at the discretion of the operator due to the nature of purchasing and li-  
2 censing such data.

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

6 (a) Confidential status shall be granted and shall include all perti-  
7 nent data and information relating to drilling completion and testing  
8 the well. Such information shall be kept confidential from the public  
9 for a period of one hundred eighty (180) days after completion of the  
10 well.

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

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

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

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

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

22 (c) Confidential status for a well log shall terminate six (6) months  
23 after the run date on the log or, in the case of an extension, twelve (12)  
24 months after the run date on the log. Confidential status for a well log  
25 shall not continue for a period in excess of twelve (12) months from the  
26 date the log was run on the well.

27 (4) The state tax commission, the oil and gas conservation commission,  
28 the Idaho geologic survey and other state agencies shall share oil and gas  
29 records when necessary for those agencies to carry out their duties assigned  
30 by law, regardless of whether the records are held confidential from the pub-  
31 lic under this section. This sharing of records shall not render the shared  
32 records subject to disclosure to the public under the public records act.

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

38 SECTION 21. That Section 47-324, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

40 47-324328. RULES FOR COMMISSION -- ADMINISTRATIVE PROCEDURES. (a1)  
41 The commission shall have authority to hear rulemaking proceedings,  
42 complaints filed with it pursuant to this chapter and appeals from the  
43 director's oil and gas administrator's decision on an application filed  
44 pursuant to this chapter, and any other matter the commission decides should  
45 be heard by the commission. The commission may act on its own motion. The  
46 commission may prescribe rules governing the procedure before it, subject  
47 to the provisions of the administrative procedure act, chapter 52, title  
48 67, Idaho Code. Provided however, that no rulemaking except for that done

1 under section 67-5226, Idaho Code, may be conducted for twelve (12) months  
2 beginning on July 1, 2017.

3 (~~b~~2) In all cases where ~~+~~ a complaint is made by the commission or any  
4 person that any provision of this act, or any rule or order of the commission  
5 is being violated, notice the commission shall serve notice of any hearing  
6 to be held on such application or complaint, ~~the commission shall serve notice~~  
7 ~~on to~~ the interested ~~parties~~ persons by certified mail, return receipt  
8 requested, or in the same manner as is provided in the rules of civil procedure  
9 for the service of summons in civil actions. Where the interested ~~party~~  
10 person is unknown or cannot be located, the commission shall serve notice by  
11 publishing at least one (1) notice of the hearing to such person in a newspaper  
12 in the county where the affected tract is located. Such notice must  
13 be sent, delivered or published, as appropriate, at least five (5) business  
14 days before the date of the hearing.

15 (~~e~~3) Except as provided in section 47-~~320~~316(1) (a), Idaho Code, and  
16 subsection (~~b~~2) of this section, any request for an order related to oil and  
17 gas activities within the commission's jurisdiction, other than a civil  
18 penalty proceeding pursuant to section 47-~~325~~329, Idaho Code, or other enforcement  
19 action by the department of lands or the commission, shall be made  
20 by application to the department of lands.

21 (~~i~~a) The department shall notify the applicant within five (5) business  
22 days of receipt of an application if the application is administratively  
23 incomplete, and in such notice shall identify the missing item or  
24 items to be supplied in order to make the application complete.

25 (~~i~~b) A decision on the merits of the application shall be made by the  
26 ~~director~~ oil and gas administrator. The ~~director's~~ oil and gas administrator's  
27 decision shall not be subject to any motion for reconsideration or further review,  
28 except for appeal to the commission provided in subsection (~~d~~4) of this section.  
29

30 (~~i~~~~i~~~~i~~c) For applications involving an order regarding unit operations  
31 or integration of a drilling unit, the department shall send a copy of the  
32 application and supporting documents to all known and located uncommitted  
33 owners, to all working interest owners within the unit, and to the respective  
34 city or county where the proposed unit is located. The mailing shall include  
35 notice of the hearing date on which the ~~director~~  
36 oil and gas administrator will consider the application. The application  
37 shall be ~~redacted pursuant to section 47-322(f), Idaho Code,~~ and  
38 sent by certified mail. Upon request, the applicant shall reimburse the  
39 department for actual mailing costs incurred under this subsection. For any  
40 uncommitted owners and working interest owners who cannot be located, an  
41 applicant shall publish notice of any application for an order once in a  
42 newspaper in the county in which the affected property is located, and  
43 request the department publish notice on its website, within seven (7) calendar  
44 days of filing of the complete application. Only an uncommitted owner in the  
45 affected unit may file an objection or other response to the application, and  
46 the uncommitted owner shall file seven (7) calendar days before the hearing  
47 date provided in the notice.

48 (~~i~~~~v~~d) For applications not involving paragraph (~~i~~~~i~~~~i~~c) of this subsection,  
49 including exceptional locations, any uncommitted owner within the area  
50 defined in the application may file an objection or other re-

1           sponse to the application, and the uncommitted owner shall file seven  
2           (7) calendar days before the hearing date provided in the notice.

3           ~~(ve)~~ The director oil and gas administrator shall hear an application  
4           within thirty (30) calendar days of the filing of a complete applica-  
5           tion. Discovery is not permitted. The director oil and gas administra-  
6           tor shall issue a written decision on any such application within thirty  
7           (30) calendar days of the hearing.

8           ~~(d4)~~ The director's oil and gas administrator's decision on an appli-  
9           cation for an order may be appealed to the commission by the applicant or any  
10          owner who filed an objection or other response to the application within the  
11          time required. An appeal must be filed with the director oil and gas admin-  
12          istrator within fourteen (14) calendar days of the date of issuance of the  
13          director's oil and gas administrator's written decision. The date of is-  
14          surance shall be three (3) calendar days after the director oil and gas ad-  
15          ministrator deposits the decision in the U.S. mail, or the date on which he  
16          remits a decision electronically. Such appeal shall include the reasons and  
17          authority for the appeal, and shall identify any facts in the record support-  
18          ing the appeal. Any person appealing shall serve a copy of the appeal materi-  
19          als on any other person who participated in the proceedings below, by cer-  
20          tified mail, or by personal service. Any person who participated in the pro-  
21          ceeding below may file a response to the appeal within five (5) calendar days  
22          of service of a copy of the appeal materials. The appellant shall provide the  
23          director oil and gas administrator with proof of service of the appeal ma-  
24          terials on other persons as required in this section. The commission shall  
25          make a decision based on the record below as set forth in the written submit-  
26          tals of only the appellant and any other participating qualified person, the  
27          director's oil and gas administrator's decision, and any oral argument taken  
28          by the commission at an appeal hearing.

29          ~~(e5)~~ Appeals to the commission shall be heard at the next regularly  
30          scheduled commission hearing, or at a special meeting of the commission if  
31          determined by the commission. In no case will a hearing be later than thirty  
32          (30) days after the filing of an appeal. The commission may take argument  
33          from, but not new testimony of, the appellant and other qualified partici-  
34          pating persons at the hearing. The commission shall make a decision on the  
35          appeal at the hearing and direct the department to issue a written order  
36          within five (5) business days of the hearing. The prevailing party shall  
37          draft a proposed written order and submit it to the department within two (2)  
38          business days. The final order of the commission shall not be subject to any  
39          motion for reconsideration.

40          ~~(f6)~~ If no appeal is filed with the commission within the required time,  
41          the decision of the director oil and gas administrator shall become the final  
42          order.

43          ~~(g7)~~ Judicial review of actions taken by the commission shall be gov-  
44          erned by the provisions of chapter 52, title 67, Idaho Code. Only a person  
45          qualified under subsection ~~(d4)~~ of this section who has completed the appeal  
46          procedures set forth in this section shall be considered to have exhausted  
47          administrative remedies as required in section 67-5271, Idaho Code.

48          ~~(h8)~~ Each order shall include a reasoned statement in support of the  
49          decision, including a concise statement of facts supporting any findings,  
50          a statement of available procedures and time limits for appeals. Findings

1 must be based exclusively on materials in the record. The applicant and any  
2 participating qualified person shall be served with a copy of the order. The  
3 order shall include or be accompanied by a certificate of service.

4 (~~19~~) Every application shall be signed by the applicant or his repre-  
5 sentative, and his address shall be stated thereon. The signature of the ap-  
6 plicant or his representative constitutes a certificate by him that he has  
7 read the application and that to the best of his knowledge, information and  
8 belief there is good ground to support the same. Each application shall be  
9 of such form and content and accompanied by the number of copies required by  
10 rule of the commission. Each application shall be accompanied by a fee as es-  
11 tablished in statute or rule.

12 SECTION 22. That Section 47-325, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 47-~~325~~329. POWERS OF COMMISSION -- WITNESSES -- PENALTY. (~~a~~1) The com-  
15 mission shall have the power to summon witnesses, to administer oaths, and to  
16 require the production of records, books, and documents for examination at  
17 any hearing or investigation conducted by ~~it~~ the commission.

18 (~~b~~2) In case of failure or refusal on the part of any person to comply  
19 with a subpoena issued by the commission, or in case of refusal of any witness  
20 to testify as to any matter regarding which he may be interrogated, any dis-  
21 trict court in the state, upon the application of the commission, may issue  
22 an attachment for such person and compel him to comply with such subpoena,  
23 and to attend before the commission and produce such records, books, and doc-  
24 uments for examination, and to give his testimony. Such court shall have the  
25 power to punish for contempt as in the case of disobedience to a like subpoena  
26 issued by the court, or for refusal to testify therein.

27 (~~e~~3) Any person who violates or fails to comply with any of the pro-  
28 visions of this chapter or any rules or orders made or promulgated hereun-  
29 der may be assessed a civil penalty by the commission or its duly authorized  
30 agent of not more than ten thousand dollars (\$10,000) for each violation and  
31 shall be liable for reasonable attorney's fees. Each day the violation con-  
32 tinues shall constitute a separate and additional violation, punishable by  
33 separate and additional civil penalties in like amount or other like civil  
34 penalties as determined by the commission; provided that the civil penalties  
35 do not begin to accrue until the date notice of violation and opportunity to  
36 be heard are given.

37 (~~1~~a) Assessment of a civil penalty may be made in conjunction with any  
38 other commission administrative action.

39 (~~2~~b) No civil penalty may be assessed unless the person charged was  
40 given notice and opportunity for a hearing pursuant to chapter 52, title  
41 67, Idaho Code, which civil penalty begins to accrue no earlier than the  
42 date notice of violation and opportunity for a hearing are given.

43 (~~3~~c) If the commission is unable to collect such penalty or if any per-  
44 son fails to pay all or a set portion of the civil penalty as determined  
45 by the commission, it may recover such amount by action in the appropri-  
46 ate district court.

47 (~~4~~d) Any person against whom the commission has assessed a civil  
48 penalty under the provisions of this section may, within twenty-eight  
49 (28) days of the final action by the agency making the assessment, ap-

1 peal the assessment to the district court of the county in which the  
2 violation is alleged by the commission to have occurred pursuant to  
3 chapter 52, title 67, Idaho Code.

4 (~~5~~e) All civil penalties collected pursuant to this section shall be  
5 remitted to the oil and gas conservation fund.

6 (~~d~~4) Whenever it shall appear that any person is violating or threat-  
7 ening to violate any provision of this act or any rule, regulation, or order  
8 made hereunder, the commission may bring a civil action in the name of the  
9 state against such person in the district court in the county of the resi-  
10 dence of the defendant, or in the county of the residence of any defendant, if  
11 there be more than one (1) defendant, or in the county where the violation is  
12 alleged to have occurred, to restrain such person from continuing such vio-  
13 lation or from carrying out the threat of violation. In such suit, the court  
14 may grant injunctions, prohibitory and mandatory, including temporary re-  
15 straining orders and temporary injunctions. In such suit, the commission  
16 may seek damages to recover costs caused by such violation including, but not  
17 limited to, costs of well control, spill response and cleanup, restoration  
18 of fresh waters, well plugging and abandonment, and reclamation of surface  
19 disturbance.

20 (e5) Nothing in this act, and no suit by or against the commission, and  
21 no violation charged or asserted against any person under any provisions of  
22 this act, or any rule, regulation or order issued hereunder, shall impair or  
23 abridge or delay any cause of action for damages which any person may have or  
24 assert against any person violating any provision of this act, or any rule,  
25 regulation, or order issued thereunder. Any person so damaged by the viola-  
26 tion may sue for and recover such damages as he otherwise may be entitled to  
27 receive. In the event the commission shall fail to bring suit to enjoin any  
28 actual or threatened violation of this act, or of any rule, regulation or or-  
29 der made hereunder, then any person or party in interest adversely affected  
30 and who has, ten (10) days or more prior thereto, notified the commission in  
31 writing of such violation or threat thereof and has requested the commission  
32 to sue, may, to prevent any or further violation, bring suit for that pur-  
33 pose in the district court of any county in which the commission could have  
34 brought suit.

35 (~~f~~6) Any person who knowingly violates any provision of this chapter,  
36 or any of the rules promulgated hereunder for carrying out the provisions of  
37 this chapter, or who knowingly fails or refuses to comply with any require-  
38 ments herein specified, or who knowingly interferes with the commission, its  
39 agents, designees or employees in the execution or on account of the execu-  
40 tion of its or their duties under this chapter or rules promulgated here-  
41 under, shall be guilty of a misdemeanor and upon conviction thereof, shall  
42 be fined not more than five thousand dollars (\$5,000) or be imprisoned in a  
43 county jail for not more than twelve (12) months, or be subject to both such  
44 fine and imprisonment.

45 (~~g~~7) Nothing in this chapter shall be construed as requiring the com-  
46 mission to report minor violations for prosecution when it believes that the  
47 public interest will be best served by suitable warnings or other adminis-  
48 trative action.

49 SECTION 23. That Section 47-330, Idaho Code, be, and the same is hereby  
50 amended to read as follows:

1           47-330. OIL AND GAS CONSERVATION FUND CREATED -- TAX. (1) For the pur-  
2 poses of paying the expenses of administration of this act and for the priv-  
3 ilege of extracting oil and gas in this state, there is hereby levied and  
4 imposed on all oil and gas produced, saved and sold or transported from the  
5 premises in Idaho where produced a tax of two and one-half percent (2.5%)  
6 of the gross income received by the producer of the oil ~~or~~ and gas produced.  
7 "Gross income" shall mean the amount realized by the producer for sale of the  
8 oil ~~or~~ and gas, whether the sale occurs at the wellhead or after transporta-  
9 tion of the product, without deduction for marketing, transportation, man-  
10 ufacturing, and processing costs borne by the producer. Where the parties  
11 to the sale are related parties and the sales price is lower than the price  
12 for which that oil ~~or~~ and gas could otherwise have been sold to a ready, will-  
13 ing, and able buyer and where the taxpayer was legally able to sell the oil  
14 ~~or~~ and gas to such a buyer, gross income shall be determined by reference to  
15 comparable arms-length sales of like kind, quality, and quantity in the same  
16 field or area. For purposes of this subsection, "related parties" shall be  
17 as defined in section 267 of the Internal Revenue Code, as defined, in sec-  
18 tion 63-3004, Idaho Code. This tax is in addition to all other taxes provided  
19 by law. It shall be the duty of the state tax commission to enforce collec-  
20 tion of this tax and to make such rules as may be necessary, pursuant to the  
21 provisions of chapter 52, title 67, Idaho Code. All money so collected shall  
22 be remitted to the state treasurer for deposit in the oil and gas conserva-  
23 tion fund, which fund is hereby created in the office of the state treasurer  
24 of the state of Idaho.

25           (2) The persons owning an interest, working interest, royalty inter-  
26 est, payments out of production, or any other interest in the oil and gas, or  
27 in the proceeds thereof, shall be liable for such tax in proportion to their  
28 ownership at the time of production. The tax so assessed and fixed shall  
29 be payable ~~quarterly~~ monthly, and the sum so due shall be remitted to the  
30 state tax commission, on or before the twentieth of the ~~next~~ month follow-  
31 ing the ~~preceding quarter~~ month in which the tax accrued, by the producer on  
32 behalf of himself and all other interested persons. The person remitting the  
33 tax, as herein provided, is hereby empowered and required to deduct from any  
34 amounts due the persons owning an interest in the oil and gas, or in the pro-  
35 ceeds thereof, at the time of production a proportionate amount of such tax  
36 before making payment to such persons.

37           (3) The tax imposed by this section shall apply to all lands in the state  
38 of Idaho, anything in this act to the contrary notwithstanding; provided  
39 however, there shall be exempted from the tax hereinabove levied and as-  
40 sessed the following, to wit:

41           (a) The interest of the United States of America and the interest of the  
42 state of Idaho and the political subdivisions thereof in any oil ~~or~~ and  
43 gas or in the proceeds thereof.

44           (b) The interest of any Indian or Indian tribe in any oil ~~or~~ and gas or  
45 the proceeds thereof, produced from lands subject to the supervision of  
46 the United States.

47           (c) Oil and gas used in producing operations or for repressuring or re-  
48 cycling purposes.

49           (4) To the extent that such sections are not in conflict with the pro-  
50 visions of this act, the deficiency in tax and notice of deficiency as well

1 as the collection and enforcement procedures provided by the Idaho income  
 2 tax act, sections 63-3038, 63-3039, 63-3040, 63-3042 through 63-3065A,  
 3 63-3068, 63-3071 and 63-3075 through 63-3078, Idaho Code, shall apply and be  
 4 available to the state tax commission for enforcement of the provisions of  
 5 this act and the assessment and collection of any amounts due. Said sections  
 6 shall for this purpose be considered a part of this act and wherever liens  
 7 or any other proceedings are defined as income tax liens or proceedings they  
 8 shall, when applied in enforcement or collection pursuant to this act, be  
 9 described as an oil and gas tax lien or proceeding.

10 The state tax commission may be made a party defendant in an action at  
 11 law or in equity by any person aggrieved by the unlawful seizure or sale of  
 12 his property, or in any suit for refund or to recover an overpayment, but  
 13 only the state of Idaho shall be responsible for any final judgment secured  
 14 against the state tax commission, and said judgment or any other amount er-  
 15 roneously or illegally collected shall be paid or satisfied out of the state  
 16 refund account created by section 63-3067, Idaho Code.

17 (5) All moneys collected under this chapter shall be distributed by the  
 18 state tax commission as follows:

19 (a) An amount of money shall be distributed to the state refund account  
 20 sufficient to pay current refund claims. All refunds authorized under  
 21 this chapter by the state tax commission shall be paid through the state  
 22 refund account, and those moneys are continuously appropriated.

23 (b) For the balance of the proceeds, forty percent (40%) shall be dis-  
 24 tributed by the end of the month following each ~~quarterly~~ monthly due  
 25 date by the state tax commission into any oil and gas revenue share ac-  
 26 count as follows:

27 (i) ~~Twenty-eight~~ Forty-four percent (~~28~~44%) is hereby appropri-  
 28 ated and shall be paid to the current expense fund of the county  
 29 from which the oil ~~or~~ and gas was produced, to be used to mitigate  
 30 the impacts associated with oil and gas production, development  
 31 and transportation in that county;

32 (ii) Twenty-eight percent (28%) is hereby appropriated and shall  
 33 be paid to the cities within the county from which the oil ~~or~~ and  
 34 gas was produced. Such funds shall be distributed to each city  
 35 based upon the proportion that the city's population bears to the  
 36 total population of all of the cities within the county; and

37 (iii) Twenty-eight percent (28%) is hereby appropriated and shall  
 38 be paid to the public school income fund; ~~and~~

39 (iv) ~~Sixteen percent (16%) shall be transferred to the local eco-~~  
 40 ~~nomical development account that is hereby created in the agency as-~~  
 41 ~~set fund to provide assistance in those counties experiencing a~~  
 42 ~~severe economic hardship due to the cutback or closure of business~~  
 43 ~~and industry associated with oil or gas production.~~

44 (c) The remainder of the moneys deposited into the oil and gas conser-  
 45 vation fund, sixty percent (60%) of the proceeds after refunds, may  
 46 be expended pursuant to legislative appropriation and shall be used  
 47 for defraying the expenses of the oil and gas conservation commission  
 48 in carrying out the provisions of this act. At the beginning of each  
 49 fiscal year, those moneys in the oil and gas conservation fund, after  
 50 applicable refunds and distribution as noted in paragraphs (a) and (b)



1 of this subsection, that exceed two hundred percent (200%) of the cur-  
2 rent year's appropriations for the oil and gas conservation commission  
3 shall be transferred to the general fund. The oil and gas conservation  
4 commission shall audit all bills for salaries and expenses incurred in  
5 the enforcement of this act that may be payable from the oil and gas con-  
6 servation fund that shall be audited, allowed and paid as to the claims  
7 against the state.

8 SECTION 24. That Chapter 3, Title 47, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 47-331, Idaho Code, and to read as follows:

11 47-331. OBLIGATION TO PAY ROYALTIES AS ESSENCE OF CONTRACT -- INTER-  
12 EST. (1) The obligation arising under an oil and gas lease to pay oil and gas  
13 royalties to the royalty owner or the owner's assignee, to deliver oil and  
14 gas to a purchaser to the credit of the royalty owner or the owner's assignee,  
15 or to pay a portion of the proceeds of the sale of the oil and gas to the roy-  
16 alty owner or the owner's assignee is of the essence in the lease contract.

17 (2) Unless otherwise agreed by the parties:

18 (a) A royalty of no less than twelve and one-half percent (12.5%) of  
19 the oil and gas or natural gas plant liquids produced and saved shall be  
20 paid. The lessee shall make payments in legal tender unless written in-  
21 structions for payment in kind have been provided.

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

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

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

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

46 SECTION 25. That Chapter 3, Title 47, Idaho Code, be, and the same is  
47 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
48 ignated as Section 47-332, Idaho Code, and to read as follows:

1 47-332. REPORTS TO ROYALTY OWNERS. (1) Each royalty payment shall be  
2 accompanied by an oil and gas royalty check stub that includes the following  
3 information:

4 (a) Lease or well identification;

5 (b) Month and year of sales included in the payment;

6 (c) Total volumes of oil, condensate, natural gas liquids or other liq-  
7 uids sold in barrels or gallons, and gas in MCF;

8 (d) Price per barrel, gallon, or MCF, including British thermal unit  
9 adjustment of gas sold;

10 (e) Severance taxes attributable to said interest;

11 (f) Net value of total sales attributed to such payment after deduction  
12 of severance taxes;

13 (g) Owner's interest in the well, expressed as a decimal to eight (8)  
14 places;

15 (h) Royalty owner's share of the total value of sales attributed to the  
16 payment before any deductions;

17 (i) Royalty owner's share of the sales value attributed to the payment,  
18 less the owner's share of the severance taxes;

19 (j) An itemized list of any other deductions; and

20 (k) An address at which additional information pertaining to the roy-  
21 alty owner's interest in production may be obtained and questions may be  
22 answered. If information is requested by certified mail, an answer must  
23 be mailed by certified mail within thirty (30) days of receipt of the re-  
24 quest.

25 (2) All revenue decimals shall be calculated to at least eight (8) deci-  
26 mal places.

27 (3) All oil and gas volumes shall be measured by certified and proved  
28 meters.

29 (4) The lessee must maintain, for a period of five (5) years, and make  
30 available to the lessor upon request, copies of all documents, records or  
31 reports confirming the gross production, disposition and market value in-  
32 cluding gas meter readings, pipeline receipts, gas line receipts and other  
33 checks or memoranda of the amount produced and put into pipelines, tanks, or  
34 pools and gas lines or gas storage, and any other reports or records that the  
35 lessor may require to verify the gross production, disposition and market  
36 value.

37 SECTION 26. That Chapter 3, Title 47, Idaho Code, be, and the same is  
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
39 ignated as Section 47-333, Idaho Code, and to read as follows:

40 47-333. ACTION FOR ACCOUNTING FOR ROYALTY. (1) Whenever an owner of a  
41 royalty interest makes a written demand for an accounting of the oil and gas  
42 produced, but no more frequently than once every twenty-four (24) months,  
43 and makes written demand for delivery or payment of his royalty as may then  
44 be due upon the person or persons obligated for the delivery or payment of the  
45 royalty, and the obligated persons then fail to make the accounting demanded  
46 and the payment or delivery of the royalty due within a period of ninety (90)  
47 days following the date upon which the demand is made, then the royalty owner  
48 may file an action in the district court of the county wherein the lands are

1 located to compel the accounting demanded and to recover the payment or de-  
2 livery of the royalty due against the person or persons obligated.

3 (2) In such an action, the prevailing party or parties shall be entitled  
4 to reasonable attorney's fees to be allowed by the court, together with the  
5 costs allowed to a prevailing party, pursuant to section 12-120, Idaho Code.

6 (3) The remedies under this section are not exclusive and do not abro-  
7 gate any right or remedy under other laws of this state.

8 SECTION 27. That Chapter 3, Title 47, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 47-334, Idaho Code, and to read as follows:

11 47-334. USE OF SURFACE LAND BY OWNER OR OPERATOR. (1) For the purposes  
12 of this section, the following definitions shall apply:

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

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

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

21 (d) "Surface landowner's property" means a surface landowner's surface  
22 land, crops on the surface land and existing improvements on the surface  
23 land.

24 (e) "Surface use agreement" means an agreement between an owner or  
25 operator and a surface landowner addressing the use and reclamation of  
26 surface land owned by the surface landowner and compensation for damage  
27 to the surface land caused by oil and gas operations that result in loss  
28 of the surface landowner's crops on the surface land, loss of value of  
29 existing improvements owned by the surface landowner on the surface  
30 land and permanent damage to the surface land.

31 (2) An owner or operator may:

32 (a) Enter onto surface land under which the owner or operator holds  
33 rights to conduct oil and gas operations; and

34 (b) Use the surface land:

35 (i) To the extent reasonably necessary to conduct oil and gas op-  
36 erations; and

37 (ii) Consistent with allowing the surface landowner the great-  
38 est possible use of the surface landowner's property, to the ex-  
39 tent that the surface landowner's use does not interfere with the  
40 owner's or operator's oil and gas operations.

41 (3) Except as is reasonably necessary to conduct oil and gas opera-  
42 tions, an owner or operator shall:

43 (a) Mitigate the effects of accessing the surface landowner's surface  
44 land;

45 (b) Minimize the interference with the surface landowner's use of the  
46 surface landowner's property; and

47 (c) Compensate a surface landowner for unreasonable:

48 (i) Loss of a surface landowner's crops on the surface land;

- 1           (ii) Loss of value to existing improvements owned by a surface  
2           landowner on the surface land; and  
3           (iii) Permanent damage to the surface land.
- 4       (4) For the purposes of this section, an owner or operator is not re-  
5       quired to:
- 6       (a) Obtain location or spacing exceptions from the department or com-  
7       mission; or  
8       (b) Utilize directional or horizontal drilling techniques that are  
9       not:
- 10       (i) Technologically feasible;  
11       (ii) Economically practicable; or  
12       (iii) Reasonably available.
- 13       (5) The provisions of subsection (2) of this section do not apply to the  
14       extent that they conflict with or impair a contractual provision relevant to  
15       an owner's or operator's use of surface land for oil and gas operations.
- 16       (6) (a) The provisions of this section do not prevent:
- 17       (i) A person from seeking a remedy allowed by law; or  
18       (ii) An owner or operator and a surface landowner from addressing  
19       the use of surface land for oil and gas operations through a lease,  
20       a surface use agreement or another written contract.
- 21       (b) An agreement described in paragraph (a)(ii) of this subsection  
22       shall control:
- 23       (i) The use of surface land for oil and gas operations; and  
24       (ii) Compensation for damage to the surface land caused by oil and  
25       gas operations.
- 26       (7) A nonbinding mediation may be requested by a surface landowner and  
27       an owner or operator by providing written notice to the other party if they  
28       are unable to agree on the amount of damages for unreasonable crop loss on  
29       the surface land, unreasonable loss of value to existing improvements owned  
30       by the surface landowner on the surface land, or unreasonable permanent dam-  
31       age to the surface land. A mediator may be mutually selected by a surface  
32       landowner and an owner or operator. The surface landowner and the owner or  
33       operator shall equally share the cost of the mediator's services. The medi-  
34       ation provisions of this section do not prevent or delay an owner or operator  
35       from conducting oil and gas operations in accordance with applicable law.
- 36       (8) A surface use bond shall be furnished to the department by the owner  
37       or operator in accordance with the following provisions:
- 38       (a) A surface use bond does not apply to surface land where the surface  
39       landowner is a party or a successor of a party to:
- 40       (i) A lease of the underlying privately owned oil and gas;  
41       (ii) A surface use agreement applicable to the surface  
42       landowner's surface land; or  
43       (iii) A contract, waiver or release addressing an owner's or oper-  
44       ator's use of the surface landowner's surface land.
- 45       (b) The surface use bond shall be in the amount of six thousand dollars  
46       (\$6,000) per well site and shall be conditioned upon the performance by  
47       the owner or operator of the duty to protect a surface landowner against  
48       unreasonable loss of crops on surface land, unreasonable loss of value  
49       of existing improvements, and unreasonable permanent damage to surface  
50       land.

1 (c) The surface use bond shall be furnished to the department on a form  
 2 designed by the department after good faith negotiation and prior to  
 3 the approval of the application for a permit to drill. The mediation  
 4 process identified in this section may commence and is encouraged to be  
 5 completed. The department may accept a surface use bond in the form of a  
 6 cash account or a certificate of deposit. Interest will remain within  
 7 the account. The department may allow the owner or operator, or a sub-  
 8 sequent owner or operator, to replace an existing surface use bond with  
 9 another bond that provides sufficient coverage. The surface use bond  
 10 shall remain in effect by the operator until released by the department.

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

15 (i) A surface use agreement or other contractual arrangement has  
 16 been reached;

17 (ii) Final resolution of the judicial appeal process for an action  
 18 for unreasonable damages has occurred and damages have been paid;  
 19 or

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

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

24 SECTION 28. That Section 74-108, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 74-108. EXEMPTIONS FROM DISCLOSURE -- ARCHAEOLOGICAL, ENDANGERED  
 27 SPECIES, LIBRARIES, LICENSING EXAMS. The following records are exempt from  
 28 disclosure:

29 (1) Records, maps or other records identifying the location of archae-  
 30 ological or geophysical sites or endangered species, if not already known to  
 31 the general public.

32 (2) Archaeological and geologic records concerning exploratory  
 33 drilling, logging, mining and other excavation, when such records are re-  
 34 quired to be filed by statute for the time provided by statute.

35 (3) Documents and data related to oil and gas production submitted to  
 36 the department of lands or the oil and gas conservation commission under the  
 37 provisions of chapter 3, title 47, Idaho Code, provided that the records  
 38 qualify for confidential status under section 47-327, Idaho Code, under the  
 39 conditions and for the time provided by statute.

40 (4) The records of a library which, when examined alone, or when exam-  
 41 ined with other public records, would reveal the identity of the library pa-  
 42 tron checking out, requesting, or using an item from a library.

43 (45) The material of a library, museum or archive that has been con-  
 44 tributed by a private person, to the extent of any limitation that is a condi-  
 45 tion of the contribution.

46 (56) Test questions, scoring keys, and other data used to administer a  
 47 licensing examination, employment, academic or other examination or testing  
 48 procedure before the examination is given if the examination is to be used  
 49 again. Records establishing procedures for and instructing persons admin-

1 istering, grading or evaluating an examination or testing procedure are in-  
2 cluded in this exemption, to the extent that disclosure would create a risk  
3 that the result might be affected.

4 (67) Land management plans required for voluntary stewardship agree-  
5 ments entered into pursuant to law and written agreements relating to the  
6 conservation of all species of sage grouse entered into voluntarily by own-  
7 ers or occupiers of land with a soil conservation district.

8 SECTION 29. That Section 42-233, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 42-233. LOW TEMPERATURE GEOTHERMAL RESOURCE. (1) The right to the use  
11 of low temperature geothermal resources of this state shall be acquired by  
12 appropriation, except as provided in subsection (2) of this section. The  
13 appropriation may be perfected by means of the application, permit and li-  
14 cense procedure as provided in this chapter for ground water, provided that  
15 low temperature geothermal resources shall be utilized primarily for heat  
16 value and secondarily for the value as water. Usage of a low temperature  
17 geothermal resource primarily for reasons other than heat value is not a ben-  
18 efiticial use of the resource, unless the director of the department of water  
19 resources exempts the proposed use. The director may exempt a proposed use  
20 if the director finds that the proposed use satisfies the following crite-  
21 ria: (i) there is no feasible alternative use of the resource; (ii) there is  
22 no economically viable source of water having a bottom hole temperature of  
23 eighty-five (85) degrees or less in a well available; and (iii) the exemption  
24 is in the public interest.

25 (2) The use of low temperature geothermal resources for the develop-  
26 ment and operation of oil and gas wells permitted under section 47-~~320~~316,  
27 Idaho Code, shall not be subject to the provisions of this chapter. How-  
28 ever, the director of the department of water resources may initiate a con-  
29 tested case in accordance with the provisions of chapter 52, title 67, Idaho  
30 Code, and the rules of procedure promulgated by the department, if the de-  
31 partment has reason to believe that an oil and gas well will cause, is caus-  
32 ing or has caused, significant negative impacts to pressure, temperature,  
33 quality necessary for beneficial use or quantity of water available to wa-  
34 ter rights existing at the time of the development of the oil and gas well or  
35 to a water resource that can be beneficially used. The evidence of causation  
36 must come from the department or be credible information from a water right  
37 or a geothermal resource permit holder existing at the time of the develop-  
38 ment of the oil and gas well. It shall be the burden of the entity operating  
39 the oil and gas well to establish that it will not cause, is not causing and  
40 has not caused significant negative impacts to pressure, temperature, qual-  
41 ity necessary for beneficial use or quantity of water available to existing  
42 water rights existing at the time of the development of the oil and gas well  
43 or to a water resource that can be beneficially used. If the director deter-  
44 mines that the well will cause, is causing or has caused significant nega-  
45 tive impacts to pressure, temperature, quality necessary for beneficial use  
46 or quantity of water available to a water right existing at the time of the  
47 development of the oil and gas well or to a water resource that can be benefi-  
48 cially used, the director may order the operator to take measures to mitigate  
49 those impacts.

1 (3) Any owner of a well who engages in the drilling, redrilling, mod-  
2 ifying or deepening of any low temperature geothermal well shall file with  
3 the director of the department of water resources a surety bond or cash bond  
4 in the penal sum of not less than five thousand dollars (\$5,000) or more than  
5 twenty thousand dollars (\$20,000) as determined by the director of the de-  
6 partment of water resources based on the temperature, depth and pressure of  
7 the resource, the size and depth of the well, and any other relevant factors.  
8 The surety or cash bond shall be conditioned upon the proper compliance with  
9 the provisions of this chapter and chapter 40, title 42, Idaho Code, and  
10 rules and regulations promulgated pursuant thereto. The bond shall remain  
11 in effect for one (1) year following completion of drilling, redrilling,  
12 modifying or deepening of the well or until released in writing by the direc-  
13 tor, whichever occurs first.

14 (4) All permits, licenses, decreed rights and valid claims to a right  
15 to the use of ground water which would be classified as a low temperature  
16 geothermal resource having a priority date prior to July 1, 1987, remain  
17 valid and the bond provisions of subsection (3) of this section are not ap-  
18 plicable unless the well from which the right diverts water is modified or  
19 deepened. The provisions of this section shall not be applicable to all  
20 permits, licenses and rights to the use of geothermal resources as defined in  
21 chapter 40, title 42, Idaho Code, which would be classified as a low temper-  
22 ature geothermal resource under this section, issued or proclaimed prior to  
23 July 1, 1987, and the bond provisions of subsection (3) of this section are  
24 not applicable to such wells.

25 SECTION 30. That Section 42-4003, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

27 42-4003. PERMITS -- APPLICATION -- FEE -- EXCEPTIONS. (1) Any person  
28 who, as owner or operator, proposes to construct a well or to alter a well or  
29 to construct or to alter an injection well shall first apply to the director  
30 for a geothermal resource well permit, except as provided in subsection (2)  
31 of this section.

32 (2) The use of ground water classified as a geothermal resource or mate-  
33 rial medium for the development and operation of oil and gas wells permitted  
34 under section 47-~~320~~316, Idaho Code, shall not be subject to the provisions  
35 of this chapter. However, the director of the department of water resources  
36 may initiate a contested case in accordance with the provisions of chapter  
37 52, title 67, Idaho Code, and the rules of procedure promulgated by the de-  
38 partment, if the department has reason to believe that an oil and gas well  
39 will cause, is causing or has caused, significant negative impacts to pres-  
40 sure, temperature, quality necessary for beneficial use or quantity of water  
41 available to water rights existing at the time of the development of the oil  
42 and gas well or to a geothermal resource that can be beneficially used. The  
43 evidence of causation must come from the department or be credible informa-  
44 tion from a water right holder or a geothermal resource permit holder exist-  
45 ing at the time of the development of the oil and gas well. It shall be the  
46 burden of the entity operating the oil and gas well to establish that it will  
47 not cause, is not causing and has not caused significant negative impacts to  
48 pressure, temperature, quality necessary for beneficial use or quantity of  
49 water available to existing water rights existing at the time of the devel-

1 opment of the oil and gas well or to geothermal resource that can be benefi-  
2 cially used. If the director determines that the well will cause, is causing  
3 or has caused significant negative impacts to pressure, temperature, qual-  
4 ity necessary for beneficial use or quantity of water available to a water  
5 right existing at the time of the development of the oil and gas well or to  
6 a geothermal resource that can be beneficially used, the director may order  
7 the operator to take measures to mitigate those impacts.

8 (3) Such application required pursuant to subsection (1) of this sec-  
9 tion shall set out the following information on a form or forms prescribed by  
10 the department:

11 (a) The name of any person making the application; if such person is  
12 a partnership, joint-venture, association, or other unincorporated  
13 group of corporate or natural persons, the names and places of domicile  
14 of each of the constituent persons who have general partnership respon-  
15 sibility and authority for and in such unincorporated group of persons;  
16 if any person named on a permit application is a corporation, its place  
17 of domicile, the names and places of domicile of its principal executive  
18 officers, and the names and places of domicile of any person or persons  
19 owning a thirty percent (30%) or greater interest, whether legal, bene-  
20 ficial, or a combined legal and beneficial interest, in such corporate  
21 person; if the applicant is making an application as an agent for any  
22 other person, it shall be clearly so stated and any person who is the  
23 applicant's principal shall be subject to each and all of the disclosure  
24 requirements of this subsection; for purposes of this subsection, the  
25 domicile of a corporation is at all of the following:

26 (i) The place of incorporation;

27 (ii) The principal place of business;

28 (iii) The place, by city and state, of the home office, and in any  
29 instance where domicile is required to be disclosed all of these  
30 places shall be specified.

31 (b) The location of the proposed well; and/or the injection well de-  
32 scribed particularly by the quarter-quarter section according to the  
33 township and range system of the United States public lands survey.

34 (c) The length, size, type, and thickness of casing proposed to be used  
35 in such well and/or such injection well and any other devices or tech-  
36 niques to be used in the drilling, operation, and maintenance of such  
37 well and/or injection well for the purpose of conserving geothermal re-  
38 sources and their availability, avoiding waste and for the protection  
39 of other subsurface natural resources.

40 (d) The character and composition of the material expected to be de-  
41 rived from such well.

42 (e) The means proposed to be used to contain and manage the material ex-  
43 pected to be derived from such well or injected into such injection well  
44 in order to avoid unreasonable damage to life, property, or surface and  
45 atmospheric natural resources.

46 (f) Whether such well or such injection well is proposed to be con-  
47 structed as a part of a program for exploration or for development of an  
48 already explored geothermal resource area.

49 (g) Such other information as the director may determine to be neces-  
50 sary for the administration of this chapter.



1 (4) Any application for a permit to construct a well which is made pur-  
2 suant to this section, if the construction or operation of such well will in-  
3 volve the use of water, or if such well may be expected to yield water to be  
4 used, for any beneficial purpose, other than as a mineral source, an energy  
5 source, or otherwise as a material medium, shall be accompanied by an appli-  
6 cation to appropriate the public waters of this state in the form prescribed  
7 in chapter 2, title 42, Idaho Code, and by rules adopted pursuant thereto,  
8 and such application to appropriate the public waters shall be governed in  
9 all respects by that chapter.

10 (5) Any application for a permit made pursuant to this section shall be  
11 accompanied by a filing fee of:

12 (a) Two hundred dollars (\$200) if for a well; or

13 (b) One hundred dollars (\$100) for an injection well;

14 and no application shall be accepted and filed by the director until such  
15 filing fee has been deposited with him. All moneys received under the pro-  
16 visions of this chapter shall be deposited with the state treasurer in the  
17 water administration fund as provided in section 42-238a, Idaho Code.

18 (6) No person shall construct or alter a well or an injection well with-  
19 out having first secured a permit therefor; provided however, that the di-  
20 rector may, by general rule adopted pursuant to chapter 52, title 67, Idaho  
21 Code, exempt specific categories of wells or injection wells otherwise em-  
22 braced by this chapter upon a finding that the purposes of this chapter do not  
23 require that such wells be subject to the permit requirement of this section.

24 (7) Nothing in this chapter shall be construed as affecting any valid,  
25 vested water rights for water in use on or before July 1, 1987.

26 (8) The director shall have the authority to and may designate any area  
27 of the state a "geothermal area" when the director finds or has reason to be-  
28 lieve that such designation is necessary to protect the geothermal resource  
29 from waste and to protect other resources of the state from contamination or  
30 waste.

31 (9) No person shall drill a well for any purpose to a depth of three  
32 thousand (3,000) feet or more below land surface in a designated "geothermal  
33 area" without first obtaining a permit under the provisions of this section.  
34 Such permit shall be in addition to any permit required by other provisions  
35 of law.

36 (10) The owner of any well constructed or being constructed pursuant to  
37 section 47-~~320~~316, Idaho Code, who encounters a geothermal resource, and who  
38 intends or desires to utilize such resource, shall make application for a  
39 geothermal permit as required under this section, provided however, that no  
40 additional filing fee shall be required.

41 (11) A geothermal resource shall be utilized primarily for its heat  
42 value. Usage of a geothermal resource primarily for some reason other than  
43 its heat value shall not be deemed a beneficial use of the resource.

44 SECTION 31. SEVERABILITY. The provisions of this act are hereby de-  
45 clared to be severable and if any provision of this act or the application  
46 of such provision to any person or circumstance is declared invalid for any  
47 reason, such declaration shall not affect the validity of the remaining por-  
48 tions of this act.

1           SECTION 32. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after its  
3 passage and approval, except for the provisions of Section 6, which shall go  
4 into effect on July 1, 2017.