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Referred: Resources and
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1 IN THE HOUSE

BY CHATTERTON AND MALONE

2 *47CS SS* HOUSE BILL NO. 830 *(FINANCE)*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Oil and Gas Conserva-
7 tion Commission; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. (a) It is the intent of the legislature that the state's
10 regulatory responsibilities and the exercise of its police powers with re-
11 spect to oil and gas development be vested in an independent regulatory
12 commission, and that the exercise of these powers be separated in fact and
13 appearance from the exercise of the state's power as owner or proprietor of
14 oil and gas resources.

15 (b) The legislature finds that the state's regulatory and police power
16 with respect to oil and gas development should be exercised with reference to
17 general but clear criteria and objectives established by the legislature.

18 * Sec. 2. AS 31 is amended by adding a new chapter to read:

19 CHAPTER 10. ALASKA OIL AND GAS CONSERVATION ACT.

20 Sec. 31.10.010. ALASKA OIL AND GAS CONSERVATION COMMISSION

21 CREATED. (a) There is created as an independent quasi-judicial agency
22 of the state the Alaska Oil and Gas Conservation Commission, composed of
23 three commissioners appointed by the governor and confirmed by the
24 legislature in joint session.

25 (b) The governor shall designate one member of the commission as
26 chairman of the commission. This member shall serve as chairman for a
27 term of four years, but may be appointed for successive terms.

28 Sec. 31.10.020. TERM OF OFFICE; VACANCY. (a) The term of office
29 of each member is six years. The governor shall designate who among his

1 initial appointees shall serve respectively for terms of two years, four
2 years and six years. A commissioner, upon the expiration of his term,
3 shall continue to hold office until his successor is appointed and
4 qualified.

5 (b) A vacancy arising in the office of commissioner shall be
6 filled by appointment by the governor and confirmed by the legislature
7 in joint session, and an appointee selected to fill a vacancy shall hold
8 office for the balance of the full term for which his predecessor on the
9 commission was appointed.

10 (c) A vacancy in the commission does not impair the authority of a
11 quorum of commissioners to exercise all the powers and perform all the
12 duties of the commission.

13 Sec. 31.10.030. REMOVAL OF COMMISSIONERS. The governor may remove
14 a commissioner from office by and with the consent of a majority of the
15 legislature.

16 Sec. 31.10.040. QUALIFICATIONS OF MEMBERS. Members shall be
17 qualified as follows: one member shall be a licensed professional
18 engineer with educational and professional background in the field of
19 petroleum engineering; one member shall be a geologist with professional
20 background in the field of petroleum geology; one member shall be a
21 person trained and experienced in a field other than petroleum engineer-
22 ing or petroleum geology.

23 Sec. 31.10.050. QUORUM. Two members of the commission constitute
24 a quorum for the transaction of business, for the performance of a duty,
25 or for the exercise of a power of the commission.

26 Sec. 31.10.060. OATH OF OFFICE. Each commissioner and the execu-
27 tive director of the commission, before entering upon the duties of his
28 office, shall take and subscribe to the oath prescribed for principal
29 officers of the state.

1 Sec. 31.10.070. COMPENSATION OF MEMBERS OF THE COMMISSION. Mem-
2 bers of the commission are in the exempt service and shall receive an
3 annual salary equal to that of a commissioner of a principal executive
4 department.

5 Sec. 31.10.080. PRINCIPAL OFFICE; SEAL. (a) The commission shall
6 establish a principal office and branch offices necessary to discharge
7 its business efficiently. For the convenience of the public or of
8 parties to a proceeding the commission may hold meetings, hearings or
9 other proceedings at other locations.

10 (b) The commission shall have an official seal.

11 Sec. 31.10.090. LEGAL COUNSEL. (a) The Department of Law shall
12 provide full-time legal counsel to the commission. The legal counsel
13 provided by the Department of Law is subject to the approval of the
14 commission.

15 (b) The commission may, subject to the approval of the attorney
16 general, contract for the services of additional specialized legal
17 counsel or legal consultants.

18 Sec. 31.10.100. COMMISSION STAFF. (a) The commission shall
19 employ an executive director and other staff as it considers necessary
20 to carry out its responsibilities.

21 (b) The professional staff of the commission and the personal
22 secretary of each commissioner are in the partially exempt service under
23 AS 39.25.120.

24 (c) The secretarial and clerical staff of the commission, except
25 the personal secretary of each commissioner, are in the classified
26 service under AS 39.25.100.

27 (d) The executive director shall receive an annual salary equal to
28 that of a commissioner of a principal executive department.

29 (e) In addition to its staff of regular employees, the commission

1 may contract for and engage the services of consultants and experts the
2 commission considers necessary.

3 Sec. 31.10.110. CONFLICT OF INTEREST. (a) No member or employee
4 of the commission may hold an interest in any oil and gas lease in
5 Alaska issued by the state or the United States.

6 (b) No member or employee of the commission may have an official
7 connection with, or hold stock or securities in, or have any pecuniary
8 interest in, any company engaged in the exploration for or development
9 of oil and gas in Alaska, or the primary business of which is the pro-
10 vision of goods or services to a company so engaged.

11 (c) This section is in addition to the requirements of AS 39.50,
12 AS 39.51, and other applicable state law.

13 (d) The commission shall cause a copy of (a) - (c) of this section
14 to be prominently posted at each office established by the commission.

15 Sec. 31.10.120. APPLICATION. The authority of the commission
16 applies to all land in the state lawfully subject to its police powers.
17 It applies to land of the United States or to land subject to the juris-
18 diction of the United States only to the extent that control and super-
19 vision of conservation of oil and gas by the United States, on its land
20 fails to carry out the intent and purposes of this chapter and otherwise
21 applies to federal land so far as an officer of the United States having
22 jurisdiction, or his authorized representative, shall approve any of the
23 provisions of this chapter or orders of the commission which affect
24 land.

25 Sec. 31.10.130. POWERS AND DUTIES OF THE COMMISSION. (a) The
26 commission has jurisdiction and authority over all persons and property,
27 public and private, necessary to carry out the purposes and intent of
28 this chapter.

29 (b) The commission shall investigate to determine whether or not

1 facts exist which justify or require action by it.

2 (c) The commission shall adopt regulations and orders and take
3 other appropriate action to carry out the purposes of this chapter.

4 (d) The commission may require

5 (1) identification of ownership of wells, producing leases,
6 tanks, plants and drilling structures;

7 (2) the making and filing of reports, well logs, drilling
8 logs, electric logs, lithologic logs, directional surveys, and all other
9 subsurface information on a well drilled for oil or gas, or for the
10 discovery of oil or gas, or for geologic information, and the required
11 reports and information shall be filed within 30 days after the comple-
12 tion, abandonment, or suspension of the well;

13 (3) the drilling, casing and plugging of wells in a manner
14 which will prevent the escape of oil or gas out of one stratum into
15 another, the intrusion of water into an oil or gas stratum, the pollu-
16 tion of fresh water supplies by oil, gas or salt water, and prevent
17 blowouts, cavings, seepages and fires;

18 (4) the furnishing of a reasonable bond with sufficient
19 surety conditions for the performance of the duty to plug each dry or
20 abandoned well or the repair of wells;

21 (5) the operation of wells with efficient gas-oil and water-
22 oil ratios, and may fix these ratios;

23 (6) the gauging or other measuring of oil and gas to deter-
24 mine the quality and quantity of oil and gas;

25 (7) every person who produces oil or gas in the state to keep
26 and maintain for a period of five years in the state complete and
27 accurate records of the quantities of oil and gas produced, which shall
28 be available for examination by the commission or its agents at all
29 reasonable times;

1 (8) the measuring and monitoring of oil and gas pool pres-
2 sures.

3 (e) The commission may regulate, for conservation purposes,

4 (1) the drilling, producing and plugging of wells;

5 (2) the shooting and chemical treatment of wells;

6 (3) the spacing of wells;

7 (4) the disposal of salt water, nonpotable water and oil
8 field wastes;

9 (5) the contamination or waste of underground water;

10 (6) the production rate of oil and gas from a well or pro-
11 perty.

12 (f) The commission may classify wells as oil or gas wells for
13 purposes material to the interpretation or enforcement of this chapter.

14 (g) The commission may by regulation require that development and
15 production of an oil or gas pool be accomplished only in accordance with
16 a development and production plan approved by the commission.

17 Sec. 31.10.140. CONFIDENTIAL REPORTS. (a) For all wells for
18 which a permit to drill has been issued by the commission since
19 January 3, 1959, the commission may require

20 (1) the making and filing of flow test information reports,
21 well logs, drilling logs, electric logs, lithologic logs, directional
22 surveys, and all other subsurface information on a well drilled for oil
23 or gas, or for the discovery of oil or gas, or for geologic information;
24 and

25 (2) the filing of all logs, except experimental logs, dip-
26 meter surveys, and velocity surveys run on a well and not required by

27 (1) of this subsection.

28 (b) Reports and information required under (a)(1) and (2) of this
29 section shall be filed within 30 days after the completion, abandonment,

1 or suspension of a well. However, under (a)(1) of this section, the
2 commission may not require the making of a log on a well completed,
3 abandoned or suspended before June 19, 1970.

4 (c) The reports and information marked confidential by the opera-
5 tor shall be kept confidential for 24 months following the 30-day filing
6 period unless the owner of the well gives written permission to release
7 the reports and information at an earlier date. Well location, depth,
8 status and production data and production reports required by the com-
9 mission to be filed after the 30-day filing period shall be considered
10 public information and shall not be classified confidential. "Produc-
11 tion data", as used in this subsection, means volume, gravity and gas-
12 oil ratio of all production of oil or gas after the well begins regular
13 production.

14 Sec. 31.10.150. REGULATIONS OF THE COMMISSION. The adoption of
15 regulations and the issuance of orders of the commission shall be in
16 accordance with the Administrative Procedure Act (AS 44.62).

17 Sec. 31.10.160. PERMITS AND FEES TO DRILL WELLS. A person desir-
18 ing to drill a well in search of oil or gas, or to facilitate the pro-
19 duction of oil or gas, shall notify the commission of his intent on a
20 form prescribed by the commission and shall pay a fee of \$100 for a
21 permit for each well sought to be drilled. Upon receipt of notification
22 and fee, the commission shall promptly issue a permit to drill, unless
23 the drilling of the well is contrary to law or a regulation or order of
24 the commission, or unless the person is in violation of a commission
25 regulation, order or stipulation pertaining to drilling, plugging or
26 abandonment of a well, or if the drilling of the well is not in accor-
27 dance with a development or production plan approved by the commission,
28 and the target of the well is a pool or formation regarding which the
29 commission has required the submission of a plan in accordance with sec.

1 130(g) of this chapter. The drilling of a well is prohibited until a
2 permit to drill is obtained in accordance with this chapter.

3 Sec. 31.10.170. ESTABLISHMENT OF DRILLING UNITS FOR POOLS. (a)
4 For the maximization of recovery, to protect and enforce the correlative
5 rights of lessees in a pool, and to avoid the reduced recovery which
6 might result from too small a number of wells, the commission shall,
7 after a hearing, establish a drilling unit or units for each pool. The
8 establishment of a unit for gas shall be limited to the production of
9 gas.

10 (b) Each well drilled on a drilling unit shall be drilled under
11 regulations and in accordance with the spacing pattern as the commission
12 prescribes for the pool in which the well is located. Exceptions to the
13 regulations and spacing pattern may be granted where it is shown, after
14 notice and hearing, that the unit is partly outside the pool, or for
15 some other reason a well so located on the unit would be nonproductive,
16 or topographical conditions are such as to make the drilling at such a
17 location unduly burdensome. If an exception is granted, the commission
18 shall take such action as will offset any advantage which the person
19 securing the exception may have over other producers by reason of the
20 drilling of the well as an exception, and so that drainage from de-
21 veloped units to the tract with respect to which the exception is
22 granted will be prevented or minimized, and the producer of the well
23 drilled as an exception will be allowed to produce no more than a just
24 and equitable share of the oil and gas in the pool.

25 (c) When two or more separately owned tracts of land are embraced
26 within an established drilling unit, persons owning the drilling rights
27 in it and the right to share in the production from it may agree to pool
28 their interests and develop their land as a drilling unit. If the
29 persons do not agree to pool their interests, the commission may enter

1 an order pooling and integrating their interests for the development of
2 their land as a drilling unit for the maximization of recovery, for the
3 protection of correlative rights, or to avoid the drilling of unneces-
4 sary wells. Orders effectuating such pooling shall be made after notice
5 and hearing, and shall be upon terms and conditions which will afford to
6 the owner of each tract the opportunity to recover or receive his just
7 and equitable share of the oil and gas in the pool without unnecessary
8 expense. Operations incident to the drilling of a well upon a portion
9 of a unit covered by a pooling order shall be considered for all pur-
10 poses to be the conduct of the operation upon each separately owned
11 tract in the unit by the several lessees of it. The portion of the
12 production allocated to the lessee of each tract included in a drilling
13 unit formed by a pooling order shall, when produced, be considered as if
14 it had been produced from the tract by a well drilled on it. If pooling
15 is effectuated, the cost of development and operation of the pooled unit
16 chargeable by the operator to the other interested lessee is limited to
17 the actual and reasonable expenditures for this purpose, including a
18 reasonable charge for supervision. As to lessees who refuse to agree
19 upon pooling, the order shall provide for reimbursement for costs
20 chargeable to each lessee out of, and only out of, production from the
21 unit belonging to such lessee. In the event of a dispute relative to
22 the costs, the commission shall determine the proper costs upon notice
23 to all interested parties and hearing. Appeals may be taken from the
24 determination as from any other order of the commission. If a lessee
25 drills and operates, or pays the expense of drilling and operating the
26 well for the benefit of others, then in addition to any other right
27 conferred by the pooling order, the lessee drilling or operating has a
28 lien on the share of production from the unit accruing to the interest
29 of each of the other lessees for the payment of his proportionate share

1 of such expenses. All the oil and gas subject to the lien, or so much
2 of the oil and gas subject to the lien as is necessary shall be marketed
3 and sold by the creditor, and the proceeds applied in payment of the
4 expenses secured by the lien, with the balance, if any, payable to the
5 debtor.

6 (d) The commission shall, in all instances where a unit has been
7 formed out of land or areas of more than one ownership, require the
8 operator, upon request of a lessee, but subject to the right of the
9 operator to market production and collect the proceeds with respect to a
10 lessee in default, as provided in (c) of this section, to deliver to the
11 lessee or his assigns his proportionate share of the production from the
12 well common to the drilling unit. The lessee receiving his share shall
13 provide at his own expense proper receptacles for the receipt and
14 storage of it.

15 (e) If persons owning the drilling or other rights in separate
16 tracts embraced within a drilling unit fail to agree upon the pooling of
17 the tracts and the drilling of the well on the unit, and if the commis-
18 sion is without authority to require pooling as provided by this sec-
19 tion, then, subject to all other applicable provisions of this chapter,
20 the lessee of each tract embraced within the drilling unit may drill on
21 his tract, but the allowable production from the tract shall be the
22 proportion of the allowable production for the full drilling unit as the
23 area of the separately owned tract bears to the full drilling unit.

24 Sec. 31.10.180. UNITIZATION AND UNITIZED OPERATION OF POOLS AND
25 INTEGRATION OF INTERESTS BY AGREEMENT. (a) To maximize, or to assist
26 in maximizing recovery, and to protect the correlative rights of persons
27 owning interests in the tracts of land affected, these persons may
28 validly integrate their interests to provide for the unitized manage-
29 ment, development, and operation of such tracts of land as a unit.

1 Where, however, they have not agreed to integrate their interests, the
2 commission, upon proper petition or on its own motion, after notice and
3 hearing, has jurisdiction, power and authority, and it is its duty to
4 make and enforce orders and do the things necessary or proper to carry
5 out the purposes of this section.

6 (b) If upon the filing of a petition by a person owning an in-
7 terest in the tracts affected, or on the commission's own motion, and
8 after notice and hearing, all in the form and manner and in accordance
9 with the procedure and requirements provided in this section, the com-
10 mission finds that (1) the unitized management, operation and further
11 development of a pool or portion of a pool is reasonably necessary in
12 order to effectively carry on pressure control, pressure-maintenance or
13 repressuring operations, cycling operations, water flooding operations,
14 or any combination of these, or any other form of joint effort calcu-
15 lated to substantially increase the ultimate recovery of oil and gas
16 from the pool; (2) one or more of the unitized methods of operation as
17 applied to the pool or portion of it is feasible, and will maximize
18 recovery; and (3) the unitization and adoption of one or more of the
19 unitized methods of operation is for the common good, it shall make a
20 finding to that effect and make an order creating the unit and providing
21 for the unitization and unitized operation of the pool or portion of it
22 described in the order, upon the terms and conditions, as may be shown
23 by the evidence to be fair, reasonable, equitable, and which are neces-
24 sary or proper to protect, safeguard and adjust the respective rights
25 and obligations of the several persons affected, including royalty
26 owner, owners of overriding royalties, oil and gas payments, carried
27 interests, mortgages, lien claimants and others, as well as the lessees.
28 The petition or motion shall set out a description of the proposed unit
29 area with a map or plat of it attached, shall allege the existence of

1 the facts required to be found by the commission as provided in this
2 subsection and shall have attached to it a recommended plan of unitiza-
3 tion applicable to the proposed unit area and which the petitioner or
4 the commission considers to be fair, reasonable and equitable.

5 (c) The order of the commission may define the boundary of the
6 area to be included within the unit area and prescribe with reasonable
7 detail the plan of unitization applicable to it. Each unit and unit
8 area shall be limited to all or a portion of a single pool. Only so
9 much of a pool as has been defined and determined to be productive of
10 oil and gas by actual drilling operations may be so included within the
11 unit area. A unit may be created to embrace less than the whole of a
12 pool only where it is shown by the evidence that the area to be so
13 included within the unit area is of a size and shape as may be reason-
14 ably required for the successful and efficient conduct of the unitized
15 method of operation for which the unit is created, and that the conduct
16 of it will have no material adverse effect upon the remainder of the
17 pool. The plan of unitization for each unit and unit area shall be one
18 suited to the needs and requirements of the particular unit dependent
19 upon the facts and conditions found to exist with respect to it. In
20 addition to other terms, provisions, conditions and requirements found
21 by the commission to be reasonably necessary or proper to carry out the
22 purpose of this chapter, and subject to the further requirements of this
23 section, each plan of unitization shall contain fair, reasonable and
24 equitable provisions for

25 (1) the efficient unitized management or control of the
26 further development and operation of the unit area for the recovery of
27 oil and gas from the pool affected; under such a plan the actual opera-
28 tions within the unit area may be carried on in whole or in part by the
29 unit itself, or by one or more of the lessees within the unit area as

1 the unit operator subject to the supervision and direction of the unit,
2 dependent upon what is most beneficial or expedient; the designation of
3 the unit operator shall be by vote of the lessees in the unit in a
4 manner provided in the plan of unitization and not by the commission;

5 (2) the division of interest or formula for the apportionment
6 and allocation of the unit production, among and to the several sepa-
7 rately owned tracts within the unit area such as will reasonably permit
8 persons otherwise entitled to share in or benefit by the production from
9 such separately owned tracts to produce and receive, instead, their
10 fair, equitable and reasonable share of the unit production or other
11 benefits of it; a separately owned tract's fair, equitable, and reason-
12 able share of the unit production shall be measured by the value of each
13 such tract for oil and gas purposes and its contributing value to the
14 unit in relation to like values of other tracts in the unit, taking into
15 account acreage, the quantity of oil and gas recoverable from it, loca-
16 tion on the structure, its probable productivity of oil and gas in the
17 absence of unit operations, the burden of operations to which the tract
18 will or is likely to be subjected, or so many of these factors, or such
19 other pertinent engineering, geological or operating factors as may be
20 reasonably susceptible of determination; "unit production" as that term
21 is used in this chapter means all oil and gas produced from a unit area
22 from the effective date of the order of the commission creating the unit
23 regardless of the well or tract within the unit area from which the same
24 is produced;

25 (3) the manner in which the unit and the further development
26 and operation of the unit area shall or may be financed and the basis,
27 terms and conditions on which the cost and expense of it shall be appor-
28 tioned among and assessed against the tracts and interests made charge-
29 able with it, including a detailed accounting procedure governing all

1 charges and credits incident to such operations; upon terms and condi-
2 tions as to time and rate of interest as may be fair to all concerned,
3 reasonable provision shall be made in the plan of unitization for
4 carrying or otherwise financing lessees who are unable to promptly meet
5 their financial obligations in connection with the unit;

6 (4) the procedure and basis upon which wells, equipment and
7 other properties of the several lessees within the unit area are to be
8 taken over and used for unit operations, including the method of arriv-
9 ing at the compensation for it, or of otherwise proportionately equal-
10 izing or adjusting the investment of the several lessees in the project
11 as of the effective date of unit operation;

12 (5) the creation of an operating committee to have general
13 overall management and control of the unit and the conduct of its
14 business and affairs and the operations carried on by it, together with
15 the creation or designation of other subcommittees, boards or officers
16 to function under the authority of the operating committee as may be
17 necessary, proper or convenient in the efficient management of the unit,
18 defining the powers and duties of all the committees, boards and offi-
19 cers, and prescribing their tenure and time and method for their selec-
20 tion;

21 (6) the time when the plan of unitization becomes effective;

22 (7) the time when and the conditions under which and the
23 method by which the unit shall or may be dissolved and its affairs wound
24 up.

25 (d) No order of the commission creating a unit and prescribing the
26 plan of unitization applicable to it becomes effective until the plan of
27 unitization has been signed or ratified in writing, or approved by the
28 lessees of record of not less than 62.5 per cent of the unit area
29 affected by it and by the owners of record of not less than 62.5 per

1 cent (exclusive of royalty interests owned by lessees or by subsidiaries
2 of any lessee) of the landowners' royalty interests in and to the unit
3 area, and the commission has made a finding either in the order creating
4 the unit or in a supplemental order that the plan of unitization has
5 been so signed, ratified or approved by lessees and royalty owners
6 owning the required percentage interest in and to the unit area. Where
7 the plan of unitization has not been signed, ratified or approved by the
8 lessees and royalty owners owning the required percentage interest in
9 and to the unit area at the time the order creating the unit is made,
10 the commission shall, upon petition and notice, hold additional and
11 supplemental hearings as may be requested or required to determine if
12 and when the plan of unitization has been signed, ratified or approved
13 by lessees and royalty owners owning the required percentage interest in
14 and to the unit area and shall, in respect to the hearing, make and
15 enter a finding of its determination in this regard. If the lessees and
16 royalty owners, or either, owning the required percentage interest in
17 and to the unit area have not signed, ratified or approved the plan of
18 unitization within a period of six months from the date on which the
19 order creating the unit is made, the order creating the unit ceases to
20 be of further force and effect and shall be revoked by the commission.
21 Revocation does not limit the commission's authority under sec. 130 of
22 this chapter.

23 (e) From the effective date of an order of the commission creating
24 a unit and prescribing the plan of unitization applicable to it, the
25 operation of a well producing from the pool or portion of it within the
26 unit area defined in the order by persons other than the unit or persons
27 acting under its authority or except in the manner and to the extent
28 provided in the plan of unitization is unlawful and is prohibited.

29 (f) The obligation or liability of the lessees or other owners of

1 the oil and gas rights in the several separately owned tracts for the
2 payment of unit expense shall at all times be several and not joint or
3 collective and in no event shall a lessee or other owner of the oil and
4 gas rights in the separately owned tract be chargeable with, obligated
5 or liable, directly or indirectly, for more than the amount apportioned,
6 assessed or otherwise charged to his interest in such separately owned
7 tract under the plan of unitization and then only to the extent of the
8 lien provided for in this chapter.

9 (g) Subject to such reasonable limitations as may be set out in
10 the plan of unitization, the unit has a first and prior lien upon the
11 leasehold estate and all other oil and gas rights (exclusive of a land-
12 owners' royalty interest) in and to each separately owned tract, the
13 interest of the owners in and to the unit production and all equipment
14 in the possession of the unit, to secure the payment of the amount of
15 the unit expense charged to and assessed against such separately owned
16 tract. The interest of the lessee or other persons who by lease, con-
17 tract or otherwise are obligated or responsible for the cost and expense
18 of developing and operating a separately owned tract for oil and gas in
19 the absence of unitization shall, however, be primarily responsible for
20 and charged with any assessment for unit expense made against the tract
21 and resort may be had to overriding royalties, oil and gas payments, or
22 other interests which otherwise are not chargeable with these costs,
23 only in the event the owner of interest primarily responsible fails to
24 pay the assessment of the production to the credit thereof, or produc-
25 tion is insufficient for that purpose. If the owner of any royalty
26 interest, overriding royalty, oil or gas payment, or any other interest
27 which under the plan of unitization is not primarily responsible for it
28 pays in whole or in part the amount of an assessment for unit expense
29 for the purpose of protecting such interest, or the amount of the

1 assessment in whole or in part is deducted from the unit production to
2 the credit of such interest, the owner of it is to the extent of the
3 payment or deduction subrogated to all the rights of the unit with
4 respect to the interest or interests primarily responsible for the
5 assessment. A part of the unit production allocated to each separately
6 owned tract shall be regarded as royalty to be distributed to and among,
7 or the proceeds of it paid to, the royalty owners free and clear of all
8 unit expense and free of any lien for it.

9 (h) Property rights, leases, contracts and all other rights and
10 obligations shall be regarded as amended and modified to the extent
11 necessary to conform to the provisions and requirements of this chapter
12 and to any valid and applicable plan of unitization or order of the
13 commission made and adopted under this chapter, but otherwise remain in
14 effect. No unit may permit the underlifting or overlifting of an ali-
15 quot of unit production unless an emergency order is approved by the
16 commission.

17 (i) Nothing contained in this chapter shall be construed to re-
18 quire a transfer to or vesting in the unit of title to the separately
19 owned tracts or leases on them within the unit area, other than the
20 right to use and operate them to the extent set out in the plan of
21 unitization; nor shall the unit be regarded as owning the unit produc-
22 tion. The unit production and the proceeds from the sale of it shall be
23 owned by the several persons to whom it is allocated under the plan of
24 unitization. All property, whether real or personal, which the unit may
25 in any way acquire, hold or possess, shall not be acquired, held or
26 possessed by the unit for its own account but shall be acquired, held
27 and possessed by the unit for the account and as agent of the several
28 lessees and shall be the property of the lessees as their interests
29 appear under the plan of unitization, subject, however, to the right of

1 the unit to the possession, management, use or disposal of the same in
2 the proper conduct of its affairs, and subject to any lien the unit may
3 have on it to secure the payment of unit expense. Neither the unit
4 production or proceeds of the sale of it, nor the other receipts shall
5 be treated, regarded, or taxed as income or profits of the unit; but
6 instead, all such receipts shall be the income of the several persons to
7 whom or to whose credit the same are payable under the plan of unitiza-
8 tion. To the extent the unit may receive or disburse the receipts it
9 shall only do so as a common administrative agent of the persons to whom
10 the receipts are payable.

11 (j) The amount of the unit production allocated to each separately
12 owned tract within the unit, and only that amount, regardless of the
13 well or wells in the unit area from which it may be produced and regard-
14 less of whether it is more or less than the amount of the production
15 from the well or wells, if any, on any such separately owned tract,
16 shall for all intents, uses and purposes be regarded and considered as
17 production from the separately owned tract, and, except as may be
18 otherwise authorized in this chapter, or in the plan of unitization
19 approved by the commission, shall be distributed among or the proceeds
20 of it paid to the persons entitled to share in the production from the
21 separately owned tract in the same manner, in the same proportions, and
22 upon the same condition that they would have participated and shared in
23 the production or proceeds of it from such separately owned tract had
24 not the unit been organized, and with the same legal effect. If ade-
25 quate provisions are made for the receipt of it, the share of the unit
26 production allocated to each separately owned tract shall be delivered
27 in kind to the persons entitled to it by virtue of ownership of oil and
28 gas rights in it or by purchase from the owners subject to the rights of
29 the unit to withhold and sell the same in payment of unit expense under

1 the plan of unitization, and subject further to the call of the unit on
2 such portions of the gas for operating purposes as may be provided in
3 the plan of unitization.

4 (k) No agreement or plan for the development and operation of a
5 field or pool of oil or gas as a unit, if approved by the commission for
6 the purpose of maximizing recovery, violates a statute of the state
7 prohibiting monopolies or acts, arrangements, agreements, contracts,
8 combinations or conspiracies in restraint of trade or commerce.

9 (l) Operations carried on under and in accordance with the plan of
10 unitization shall be regarded and considered as a fulfillment of a
11 compliance with all of the provisions, covenants and conditions, express
12 or implied, of the several oil and gas leases upon land included within
13 the unit area, or other contracts pertaining to the development of it
14 insofar as the leases or other contracts may relate to the pool or
15 portion of it included in the unit area. Wells drilled or operated on
16 any part of the unit area no matter where located shall for all purposes
17 be regarded as wells drilled on each separately owned tract within the
18 unit area.

19 (m) Nothing in this section or in any plan of unitization shall be
20 construed as increasing or decreasing the implied covenants of a lease
21 in respect to a common source of supply or land not included within the
22 unit area of a unit.

23 (n) The unit area of a unit may be enlarged to include adjoining
24 portions of the same pool, including the unit area of another unit, and
25 a new unit created for the unitized management, operation and further
26 development of the enlarged unit area, or the plan of unitization may be
27 otherwise amended, all in the same manner, upon the same conditions and
28 subject to the same limitations as provided with respect to the creation
29 of a unit in the first instance; except that where the amendment to the

1 plan of unitization relates only to the rights and obligations as be-
2 tween lessees the requirement that it be signed, ratified, and approved
3 by royalty owners of record of not less than 62.5 per cent of the unit
4 area does not apply.

5 Sec. 31.10.190. PENALTIES. (a) A person who wilfully violates a
6 provision of this chapter, or a regulation or order of the commission
7 adopted under this chapter, is subject to a penalty of not more than
8 \$5,000 for each act of violation and for each day that the violation
9 continues, unless the penalty for violation is otherwise provided for
10 and made exclusive in this chapter.

11 (b) If a person, for the purpose of evading this chapter, or any
12 regulation or order of the commission adopted under this chapter, wil-
13 fully makes or has made a false entry in a record, account or memorandum
14 required by this chapter, or by a regulation or order, or wilfully
15 omits, or causes to be omitted, from a record, account or memorandum,
16 full, true and correct entries as required by this chapter, or by a
17 regulation or order, or removes from the state or destroys, mutilates,
18 alters or falsifies such record, account or memorandum, the person is
19 guilty of a misdemeanor, and upon conviction is punishable by a fine of
20 not more than \$5,000, or by imprisonment for not more than six months,
21 or by both.

22 (c) A person who knowingly aids or abets another person in the
23 violation of any provision of this chapter, or a regulation or order of
24 the commission adopted under this chapter, is subject to the same
25 penalty as that prescribed by this chapter for the violation by the
26 other person.

27 (d) The penalties provided in this section are recoverable by suit
28 filed by the attorney general in the name and on behalf of the commis-
29 sion in the superior court of the judicial district in which the de-

1 defendant resides or in which any defendant resides, if there is more than
2 one defendant, or in the superior court of the judicial district in
3 which the violation occurs. The payment of a penalty does not relieve a
4 person on whom the penalty is imposed from liability to any other person
5 for damages arising out of the violation.

6 (e) The commission may impose a penalty payment on every 1,000
7 cubic feet of natural gas flared, vented or produced contrary to an
8 order of the commission. The penalty shall be the fair market value of
9 the natural gas at the point of flaring, venting, or production.

10 Sec. 31.10.200. INJUNCTIVE RELIEF. (a) Whenever it appears that
11 a person is violating or threatening to violate any provision of this
12 chapter, or any regulation or order of the commission, the commission
13 shall bring suit against that person in the superior court of the judi-
14 cial district where the violation occurs or is threatened, to restrain
15 the person from continuing the violation or from carrying out the threat
16 of violation. In the suit, the court shall have jurisdiction to grant
17 to the commission, without bond or otherwise undertaking, such prohibi-
18 tory and mandatory injunctions as the facts warrant.

19 (b) If the commission fails to bring suit to enjoin a violation or
20 threatened violation within 10 days after receipt of written request to
21 do so by a person who is or will be adversely affected by the violation,
22 the person making the request may bring suit in his own behalf to re-
23 strain the violation or threatened violation in the court in which the
24 commission may bring suit. If the court finds that injunctive relief
25 should be granted, the commission shall be made a party and shall be
26 substituted for the person who brought the suit, and the injunction
27 shall be issued as if the commission had at all times been the plain-
28 tiff.

29 Sec. 31.10.210. RELATIONSHIP TO DEPARTMENT OF NATURAL RESOURCES.

1 (a) The department shall, with respect to land owned by the state, have
2 the same standing before the commission as the owner of any lease or
3 other interest in the state land.

4 (b) With respect to federal land from which the state or any
5 subdivision of the state is entitled under federal law to receive a
6 share of the federal royalty interest, the department shall have the
7 same standing before the commission as if it were the holder of the
8 equivalent royalty interest.

9 (c) When both the department and the commission have the authority
10 to require, and do require, the submission of substantially the same
11 information from persons subject to this chapter, the commission, in
12 order to alleviate the administrative burdens placed on those persons,
13 may by regulation enter into an agreement with the department whereby
14 either the commission or the department shall have the responsibility to
15 collect the information lawfully required by both.

16 Sec. 31.10.220. PROTECTION OF ECONOMIC INTERESTS OF PRODUCERS.

17 (a) The commission may not take any action with respect to the produc-
18 tion or development of any field if it is shown that the proposed action
19 would lower the expected discounted cash flow rate of return on total
20 field investment to below 10 per cent. The commission shall give the
21 affected parties opportunity through hearing to make this showing.

22 (b) The discounted cash flow rate of return shall be calculated
23 after the deduction from gross income of property taxes imposed under AS
24 43.56, production taxes imposed under AS 43.55, and one-eighth royalty
25 interest; further, the calculation shall be made only with reference to
26 future investments and revenues.

27 (c) The commission shall by regulation establish procedures for
28 the calculation of the discounted cash flow rate of return. These
29 procedures may take account of risk and other factors as may be appro-

1 priate.

2 Sec. 31.10.230. DEFINITIONS. In this chapter, unless the context
3 otherwise requires,

4 (1) "commission" means the Alaska Oil and Gas Conservation
5 Commission;

6 (2) "correlative rights" mean the opportunity afforded, so
7 far as it is practicable to do so, to the owner of each property in a
8 pool to maximize recovery of his just and equitable share of the oil or
9 gas, or both, in the pool; being an amount, so far as can be practically
10 determined, and so far as can practicably be obtained, substantially in
11 the proportion that the quantity of recoverable oil or gas, or both,
12 under the property bears to the total recoverable oil or gas, or both, in
13 the pool, and for such purposes to use his just and equitable share of
14 the reservoir energy;

15 (3) "department" means the Department of Natural Resources;

16 (4) "field" means a general area which is underlain or
17 appears to be underlain by at least one pool, and includes the under-
18 ground reservoir containing oil or gas; and the words "pool" and "field"
19 mean the same thing when only one underground reservoir is involved, but
20 "field" unlike "pool" may relate to two or more pools;

21 (5) "gas" includes all natural gas and all hydrocarbons
22 produced at the wellhead not defined as oil;

23 (6) "maximize recovery" and "maximum recovery" mean the
24 greatest possible recovery from a pool or field, subject to sec. 220 of
25 this chapter, of the reservoir fluids as measured by their BTU content;

26 (7) "oil" includes crude petroleum oil and other hydrocarbons
27 regardless of gravity which are produced at the wellhead in liquid form
28 and the liquid hydrocarbons known as distillate or condensate recovered
29 or extracted from gas, other than gas produced in association with oil

1 and commonly known as casinghead gas;

2 (8) "owner" means the person who has the right to drill into
3 and produce from a pool and to appropriate the oil and gas he produces
4 from a pool for himself and others;

5 (9) "person" includes a natural person, corporation, associ-
6 ation, partnership, receiver, trustee, executor, administrator, guar-
7 dian, fiduciary or other representative of any kind, and includes a
8 department, agency or instrumentality of the state or a governmental
9 subdivision of the state;

10 (10) "pool" means an underground reservoir containing, or
11 appearing to contain, a common accumulation of oil or gas; each zone of
12 a general structure which is completely separated from any other zone in
13 the structure is covered by the term "pool";

14 (11) "producer" means the owner of a well or wells capable of
15 producing oil or gas or both;

16 (12) "cubic foot of natural gas" means the volume of gas con-
17 tained in one cubic foot of space measured at a pressure base of 14.73
18 pounds per square inch absolute and a temperature base of 60 degrees
19 Fahrenheit.

20 * Sec. 3. AS 39.50.200(9) is amended by adding a new subparagraph to
21 read:

22 (NN) Alaska Oil and Gas Conservation Commission (AS
23 31.10).

24 * Sec. 4. AS 43.55.020(e) is amended to read:

25 (e) Gas produced in excess of that needed for safety purposes, ex-
26 cept gas used in the operation of a lease or property in drilling for or
27 producing oil or gas, or for repressuring, is considered, for the pur-
28 pose of this chapter and in the amount used, as gas produced from a
29 lease or property. Gas flared beyond the amount authorized for safety

1 by the Alaska Oil and Gas Conservation Commission [DEPARTMENT OF NATURAL
2 RESOURCES] under AS 31.10 [31.05.170(11)(H)] is considered as gas pro-
3 duced, except that it is subject to a penalty equal to the tax computed
4 under sec. 16 of this chapter as adjusted by sec. 12 of this chapter per
5 thousand cubic feet of gas for the month in which the gas was flared.

6 * Sec. 5. AS 38.05.180(n) is amended to read:

7 (n) A plan authorized by (m) of this section, which includes lands
8 owned by the state, may contain a provision vesting the commissioner, or
9 a person, committee, or state agency with authority to alter or modify
10 from time to time the rate of prospecting and development and the
11 quantity and rate of production under the plan. All leases operated
12 under a plan approved or prescribed by the commissioner are excepted in
13 determining holdings or control under sec. 140 of this chapter. The
14 provisions of this section concerning cooperative or unit plans are in
15 addition to, and do not affect AS 31.10 [31.05].

16 * Sec. 6. AS 31.05 is repealed.

17 * Sec. 7. This Act takes effect January 1, 1979.
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