

CHAPTER 40

AN ACT

Defining and prohibiting the waste of oil and gas in the Territory of Alaska; creating the Alaska Oil and Gas Conservation Commission; placing the administration and enforcement of this Act as a responsibility of the Alaska Oil and Gas Conservation Commission; defining powers and duties of the Alaska Oil and Gas Conservation Commission with respect to the conservation of oil and gas; providing for the enforcement of this Act and the rules, regulations and orders of the Alaska Oil and Gas Conservation Commission; providing for the filing and hearing of complaints concerning the waste of oil and gas, and for oaths, subpoenas, suits and appeals; providing for a tax on oil and gas produced in this Territory for the purpose of administering this Act; providing penalties for violations thereof, and other matters properly relating thereto.

(H. B. 75)

Be it Enacted by the Legislature of the Territory of Alaska:

Section 1. Waste of Oil and Gas Prohibited. The waste of oil and gas is prohibited in the Territory of Alaska.

Section 2. Definitions of Words and Terms. As used in this Act, unless the context otherwise requires:

1. "Commission" shall mean the Alaska Oil and Gas Conservation Commission.

2. "Oil" shall mean and include crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or

condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas.

3. "Gas" shall mean and include all natural gas and all hydrocarbons produced at the wellhead not defined herein as oil.

4. "Person" means and includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any department, agency or instrumentality of the Territory or any governmental subdivision thereof. The masculine gender, in referring to a person, includes the feminine and the neuter genders.

5. "Owner" shall mean and include the person who has the right to drill into and produce from a pool and to appropriate the oil and gas he produces therefrom for himself and others.

6. "Producer" shall mean and include the owner of a well or wells capable of producing oil or gas or both.

7. "Pool" shall mean an underground reservoir containing, or appearing to contain, a common accumulation of oil or gas. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool" as herein used.

8. "Field" shall mean the general area which is underlain or appears to be underlain by at least one pool; and "field" shall include the underground reservoir or reservoirs containing oil or gas. The words "pool" and "field" mean the same thing when only one underground reservoir is involved; however, "field" unlike "pool" may relate to two or more pools.

9. The word "and" includes the word "or" and the use of the word "or" includes the word "and".

10. The use of the plural includes the singular and the use of the singular includes the plural.

11. "Waste" shall mean, in addition to its ordinary meaning, "physical waste" and shall include:

(a) The inefficient, excessive, or

improper use of, or unnecessary dissipation of, reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well in a manner which results or tends to result in reducing the quantity of oil or gas to be recovered from any pool in this Territory under operations conducted in accordance with good oil field engineering practices.

(b) The inefficient above-ground storage of oil; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.

(c) Producing oil or gas in such manner as to cause unnecessary water channeling or coning.

(d) The operation of an oil well with an inefficient gas-oil ratio.

(e) The drowning with water of any pool or part thereof capable of producing oil or gas, except in so far as, and to the extent, authorized by the Commission hereunder

(f) Underground waste.

(g) The creation of unnecessary fire hazards.

(h) The escape into the open air, from a well producing oil or gas, of gas in excess of the amount which is reasonably necessary in the efficient production of the well.

(i) The use of gas for the manu-

facture of carbon black, except as provided for in this Act.

12. "Correlative Rights" shall mean the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool; being an amount, so far as can be practically determined, and so far as can practicably be obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both under such property bears to the total recoverable oil or gas or both in the pool, and for such purposes to use his just and equitable share of the reservoir energy.

Section 3. Creation of Commission; Members; Compensation; Terms of Office; Election of Chairman; Appointment of Secretary; Quorum; Seal; Employees and Legal Counsel.

1. There is hereby created the Alaska Oil and Gas Conservation Commission to be composed of the Governor, the Territorial Highway Engineer and the Commissioner of the Alaska Department of Mines. No salary or compensation shall be paid any member of the Commission for his services as a member thereof, but the actual and necessary expenses of the members of the Commission incurred or expended in the performance of the duties imposed on the Commission, shall be paid out of the Oil Con-

servation Fund hereinafter created. The term of office of each member of the Commission shall be concurrent with his occupancy of the office by virtue of which he has membership on said Commission. The Commission shall organize by electing a chairman from its membership, and shall appoint a secretary. Two members of the Commission shall constitute a quorum for all purposes. Two affirmative votes shall be necessary for the adoption or promulgation of any rule, regulation or order of the Commission. The Commission shall adopt a seal and such seal affixed to any paper signed by the secretary of the Commission shall be prima facie evidence of the due execution thereof. Any member or employee of the Commission shall have power to administer oaths to witnesses in any hearing, investigation or proceeding contemplated by this Act, or by any other law of this Territory relating to oil and gas.

2. The Commission may at any time, when it finds that the public interest will be served thereby, hire such other employees as are found to be necessary to assist the Commission in discharge of its respective duties. All employees or assistants authorized by this Act shall be paid their necessary traveling and living expenses when traveling on official business at such rates and within such limits as may be fixed by the Commission subject to existing law.

3. The Attorney General shall be

the attorney for the Commission; provided, however, that the Commission may, in cases of emergency or in special cases, from any funds available to it, retain additional counsel to assist the Attorney General.

4. Until such time as oil or gas is produced and marketed in commercial quantities in this Territory, the Commissioner of the Alaska Department of Mines shall serve without pay as the director of the Alaska Oil and Gas Conservation Commission.

Section 4. Powers of the Commission.

1. The Commission has jurisdiction and authority over all persons and property, public and private, necessary to effectuate the purposes and intent of this Act.

2. The Commission has authority and it is its duty to make investigation to determine whether waste exists or is imminent, or whether other facts exist which justify or require action by it hereunder.

3. The Commission shall make rules, regulations and orders and shall take other appropriate action to effectuate the purposes of this Act.

4. The Commission has authority:

(a) To require:

(1) Identification of ownership of wells, producing leases, tanks, plants and drilling structures.

(2) The making and filing of reports, well logs and directional surveys; provided, however, that logs of exploratory or "wildcat" wells marked "confidential" shall be kept confidential for 6 months after the filing thereof, unless the owner gives written permission to release such logs at an earlier date.

(3) The drilling, casing and plugging of wells in such a manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water, and to prevent blowouts, cavings, seepages and fires.

(4) The furnishing of a reasonable bond with good and sufficient surety conditions for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste.

(5) The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios.

(6) The gauging or other measuring of oil and gas to determine the quality and quantity thereof.

(7) That every person who produces oil or gas in this Territory shall keep and maintain for a period of 5 years within this Territory complete and accurate records of the quantities thereof, which shall be available for examination by the Commission or its agents at all reasonable times.

(b) To regulate, for conservation purposes:

(1) The drilling, producing and plugging of wells.

(2) The shooting and chemical treatment of wells.

(3) The spacing of wells.

(4) The disposal of salt water, nonpotable water and oil field wastes.

(5) The contamination or waste of underground water.

(c) To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this Act.

Section 5. Permits to Drill Wells Required; Fees. A person desiring to drill a well in search of oil or gas shall notify the Commission of such intent on a form prescribed by the Commission and shall pay a fee of \$50 for a permit for each well sought to be drilled. Upon receipt of notification and fee, the Commission shall promptly issue such a person a permit to drill, unless the drilling of the well is contrary to law or a rule, regulation or order of the Commission. The drilling of a well is prohibited until a permit to drill is obtained in accordance with the provisions of this Act.

Section 6. Establishment of Drilling Units for Pools.

1. For the prevention of waste, to protect and enforce the correla-

tive rights of lessees in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, or the reduced recovery which might result from too small a number of wells, the Commission shall, after a hearing, establish a drilling unit or units for each pool. The establishment of a unit for gas shall be limited to the production of gas.

2. Each well permitted to be drilled on a drilling unit shall be drilled under such rules and regulations and in accordance with such spacing pattern as the Commission shall prescribe for the pool in which the well is located. Exceptions to the rules and spacing pattern may be granted where it is shown, after notice and hearing, that the unit is partly outside the pool, or for some other reason, a well so located on the unit would be nonproductive, or topographical conditions are such as to make the drilling at such a location unduly burdensome. In the event an exception is granted, the Commission shall take such action as will offset any advantage which the person securing the exception may have over other producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract with respect to which the exception is granted will be prevented or minimized, and the producer of the well drilled as an exception will be allowed to produce no more than a just and equi-

table share of the oil and gas in the pool.

3. When two or more separately owned tracts of land are embraced within an established drilling unit, persons owning the drilling rights therein and the right to share in the production therefrom may agree to pool their interests and develop their lands as a drilling unit. In the event such persons do not agree to pool their interests, the Commission may, for the prevention of waste, for the protection of correlative rights, or to avoid the drilling of unnecessary wells, enter an order pooling and integrating their interests for the development of their lands as a drilling unit. Orders effectuating such pooling shall be made after notice and hearing, and shall be upon terms and conditions which will afford to the owner of each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense. Operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of such operation upon each separately owned tract in the unit by the several lessees thereof. The portion of the production allocated to the lessee of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from such tract by a well drilled thereon. In the event such pooling is effectuated, the cost of develop-

ment and operation of the pooled unit chargeable by the operator to the other interested lessee shall be limited to the actual and reasonable expenditures required for such purpose, including a reasonable charge for supervision. As to lessees who refuse to agree upon pooling, the order shall provide for reimbursement for costs chargeable to each lessee out of, and only out of, production from the unit belonging to such lessee. In the event of a dispute relative to such costs, the Commission shall, upon notice to all interested parties and hearing thereon, determine the proper costs. Appeals may be taken from such determination as from any other order of the Commission. If one or more of the lessees shall drill and operate, or pay the expense of drilling and operating, the well for the benefit of others, then in addition to any other right conferred by the pooling order, the lessee or lessees so drilling or operating shall have a lien on the share of production from the unit accruing to the interest of each of the other lessees for the payment of his proportionate share of such expenses. All the oil and gas subject to the lien, or so much thereof as shall be necessary, shall be marketed and sold by the creditor, and the proceeds applied in payment of the expenses secured by such lien, with the balance, if any, payable to the debtor.

4. The Commission shall, in all instances where a unit has been formed out of lands or areas of

more than one ownership, require the operator, upon request of a lessee, but subject to the right of the operator to market production and collect the proceeds with respect to a lessee in default, as provided in subsection 3 of this section, to deliver to the lessee or his assigns his proportionate share of the production from the well common to the drilling unit. The lessee receiving his share shall provide at his own expense proper receptacles for the receipt and storage thereof.

5. In the event the persons owning the drilling or other rights in separate tracts embraced within a drilling unit fail to agree upon the pooling of the tracts and the drilling of a well on the unit, and if the Commission is without authority to require pooling as provided by this section, then subject to all other applicable provisions of this Act, the lessee of each tract embraced within the drilling unit may drill on his tract, but the allowable production from the tract shall be such proportion of the allowable production for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

Section 7. Unitization and Unitized Operation of Pools; Integration of Interests by Agreement; Creation by Commission.

1. To prevent, or to assist in preventing waste, as prohibited by this Act, to insure a greater ultimate

recovery of oil and gas, and to protect the correlative rights of persons owning interests in the tracts of land affected, such persons may validly integrate their interests to provide for the unitized management, development, and operation of such tracts of land as a unit. Where, however, such persons have not agreed to so integrate their interests, the Commission, upon proper petition, after notice and hearing, as hereinafter provided, shall be vested with jurisdiction, power and authority, and it shall be its duty to make and enforce such orders and do such things as may be necessary or proper to carry out and effectuate the purposes of this section.

2. If upon the filing of a petition therefor and after notice and hearing, all in the form and manner and in accordance with the procedure and requirements hereinafter provided, the Commission shall find:

(a) That the unitized management, operation and further development of a pool or portion thereof is reasonably necessary in order to effectively carry on pressure control, pressure-maintenance or repressuring operations, cycling operations, water flooding operations, or any combination thereof, or any other form of joint effort calculated to substantially increase the ultimate recovery of oil and gas from the pool; and

(b) That one or more of the uni-

tized methods of operation as applied to such pool or portion thereof are feasible, will prevent waste and will with reasonable probability result in the increased recovery of substantially more oil and gas from the pool than would otherwise be recovered; and

(c) That the estimated additional cost, if any, of conducting such operations will not exceed the value of the additional oil and gas so recovered; and

(d) That such unitization and adoption of one or more of such unitized methods of operation is for the common good and will result in the general advantage of the owners of the oil and gas rights within the pool or the portion thereof directly affected, it shall make a finding to that effect and make an order creating the unit and providing for the unitization and unitized operation of the pool or portion thereof described in the order, all upon such terms and conditions, as may be shown by the evidence to be fair, reasonable, equitable, and which are necessary or proper to protect, safeguard and adjust the respective rights and obligations of the several persons affected, including royalty owner, owners of overriding royalties, oil and gas payments, carried interests, mortgages, lien claimants and others, as well as the lessees. The petition shall set forth a description of the proposed unit area with a map or plat thereof attached, must allege the existence of the facts

required to be found by the Commission as hereinabove provided and shall have attached thereto a recommended plan of unitization applicable to such proposed unit area and which the petitioner considers to be fair, reasonable and equitable.

3. The order of the Commission shall define the area of the pool or portion thereof to be included within the unit area and prescribe with reasonable detail the plan of unitization applicable thereto. Each unit and unit area shall be limited to all or a portion of a single pool. Only so much of a pool as has been defined and determined to be productive of oil and gas by actual drilling operations may be so included within the unit area. A unit may be created to embrace less than the whole of a pool only where it is shown by the evidence that the area to be so included within the unit area is of such size and shape as may be reasonably required for the successful and efficient conduct of the unitized method of operation for which the unit is created, and that the conduct thereof will have no material adverse effect upon the remainder of such pool. The plan of unitization for each such unit and unit area shall be one suited to the needs and requirements of the particular unit dependent upon the facts and conditions found to exist with respect thereto. In addition to such other terms, provisions, conditions and requirements found

by the Commission to be reasonably necessary or proper to effectuate or accomplish the purpose of this Act, and subject to the further requirements hereof, each such plan of unitization shall contain fair, reasonable and equitable provisions for:

(a) The efficient unitized management or control of the further development and operation of the unit area for the recovery of oil and gas from the pool affected. Under such a plan the actual operations within the unit area may be carried on in whole or in part by the unit itself, or by one or more of the lessees within the unit area as the unit operator subject to the supervision and direction of the unit, dependent upon what is most beneficial or expedient. The designation of the unit operator shall be by vote of the lessees in the unit in a manner provided in the plan of unitization and not by the Commission.

(b) The division of interest or formula for the apportionment and allocation of the unit production, among and to the several separately-owned tracts within the unit area such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately-owned tracts to produce and receive, in lieu thereof, their fair, equitable and reasonable share of the unit production or other benefits thereof. A separately-owned tract's fair, equitable, and reasonable share of

the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable therefrom, location on the structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operations to which the tract will or is likely to be subjected, or so many of said factors, or such other pertinent engineering, geological or operating factors, as may be reasonably susceptible of determination. Unit production as that term is used in this Act shall mean and include all oil and gas produced from a unit area from and after the effective date of the order of the Commission creating the unit regardless of the well or tract within the unit area from which the same is produced.

(c) The manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms and conditions on which the cost and expense thereof shall be apportioned among and assessed against the tracts and interests made chargeable therewith, including a detailed accounting procedure governing all charges and credits incident to such operations. Upon and subject to such terms and conditions as to time and rate of interest as may be fair to all concerned, reasonable provision shall

be made in the plan of unitization for carrying or otherwise financing lessees who are unable to promptly meet their financial obligations in connection with the unit.

(d) The procedure and basis upon which wells, equipment and other properties of the several lessees within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor, or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the project as of the effective date of unit operation.

(e) The creation of an Operating Committee to have general over-all management and control of the unit and the conduct of its business and affairs and the operations carried on by it, together with the creation or designation of such other sub-committees, boards or officers to function under the authority of the Operating Committee as may be necessary, proper or convenient in the efficient management of the unit, defining the powers and duties of all such committees, boards and officers, and prescribing their tenure and time and method for their selection.

(f) The time when the plan of unitization shall become effective.

(g) The time when and the conditions under which and the method by which the unit shall or may be

dissolved and its affairs wound up.

4. No order of the Commission creating a unit and prescribing the plan of unitization applicable thereto shall become effective unless and until the plan of unitization has been signed or in writing ratified, or approved by the lessees of record of not less than 62.5 percent of the unit area affected thereby and by the owners of record of not less than 62.5 percent (exclusive of royalty interests owned by lessees or by subsidiaries of any lessee) of the normal one-eighth landowners' royalty interest in and to the unit area, and the Commission has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area. Where the plan of unitization has not been so signed, ratified or approved by the lessees and royalty owners owning the required percentage interest in and to the unit area at the time the order creating the unit is made, the Commission shall, upon petition and notice, hold such additional and supplemental hearings as may be requested or required to determine if and when the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area and shall, in respect to such hearing, make and enter a finding of its determination

in such regard. In the event lessees and royalty owners, or either, owning the required percentage interest in and to the unit area have not so signed, ratified or approved the plan of unitization within a period of 6 months from and after the date on which the order creating the unit is made, the order creating the unit shall cease to be of further force and effect and shall be revoked by the Commission.

5. Except as otherwise herein expressly provided, all proceedings held under this Act, including the filing of petitions, the giving of notices, the conduct of hearings and other action taken by the Commission shall be in the form and manner and in accordance with the procedure and procedural requirements provided in section 9, or any amendment thereof with reference to proceedings thereunder. Such additional notice shall be given as may be required by the Commission.

6. From and after the effective date of an order of the Commission creating a unit and prescribing the plan of unitization applicable thereto, the operation of any well producing from the pool or portion thereof within the unit area defined in the order by persons other than the unit or persons acting under its authority or except in the manner and to the extent provided in such plan of unitization shall be unlawful and is hereby prohibited.

7. The obligation or liability of

the lessees or other owners of the oil and gas rights in the several separately-owned tracts for the payment of unit expense shall at all times be several and not joint or collective and in no event shall a lessee or other owner of the oil and gas rights in the separately-owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in such separately-owned tract pursuant to the plan of unitization and then only to the extent of the lien provided for in this Act.

8. Subject to such reasonable limitations as may be set out in the plan of unitization, the unit shall have a first and prior lien upon the leasehold estate and all other oil and gas rights (exclusive of a one-eighth landowners' royalty interest) in and to each separately-owned tract, the interest of the owners thereof in and to the unit production and all equipment in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately-owned tract. The interest of the lessee or other persons who by lease, contract or otherwise are obligated or responsible for the cost and expense of developing and operating a separately-owned tract for oil and gas in the absence of unitization, shall however, be primarily responsible for and charged with any assessment for unit ex-

pense made against such tract and resort may be had to overriding royalties, oil and gas payments, royalty interests in excess of one-eighth of the production, or other interests which otherwise are not chargeable with such costs, only in the event the owner of interest primarily responsible fails to pay such assessment of the production to the credit thereof, or production is insufficient for that purpose. In the event the owner of any royalty interest, overriding royalty, oil or gas payment, or any other interest which under the plan of unitization is not primarily responsible therefor pays in whole or in part the amount of an assessment for unit expense for the purpose of protecting such interest, or the amount of the assessment in whole or in part is deducted from the unit production to the credit of such interest, the owner thereof shall to the extent of such payment or deduction be subrogated to all the rights of the unit with respect to the interest or interests primarily responsible for such assessment. A one-eighth part of the unit production allocated to each separately-owned tract shall in all events be regarded as royalty to be distributed to and among, or the proceeds thereof paid to, the royalty owners free and clear of all unit expense and free of any lien therefor.

9. Property rights, leases, contracts and all other rights and obligations shall be regarded as

amended and modified to the extent necessary to conform to the provisions and requirements of this Act and to any valid and applicable plan of unitization or order of the Commission made and adopted pursuant hereto, but otherwise to remain in full force and effect.

10. Nothing contained in this Act shall be construed to require a transfer to or vesting in the unit of title to the separately-owned tracts or leases thereon within the unit area, other than the right to use and operate the same to the extent set out in the plan of unitization; nor shall the unit be regarded as owning the unit production. The unit production and the proceeds from the sale thereof shall be owned by the several persons to whom the same is allocated under the plan of unitization. All property, whether real or personal, which the unit may in any way acquire, hold or possess, shall not be acquired, held or possessed by the unit for its own account but shall be so acquired, held and possessed by the unit for the account and as agent of the several lessees and shall be the property of such lessees as their interests may appear under the plan of unitization, subject, however, to the right of the unit to the possession, management, use or disposal of the same in the proper conduct of its affairs, and subject to any lien the unit may have thereon to secure the payment of unit expense. Neither

the unit production or proceeds of the sale thereof, nor the other receipts shall be treated, be regarded, or taxed as income or profits of the unit; but instead, all such receipts shall be the income of the several persons to whom or to whose credit the same are payable under the plan of unitization. To the extent the unit may receive or disburse said receipts it shall only do so as a common administrative agent of the persons to whom the same are payable.

11. The amount of the unit production allocated to each separately-owned tract within the unit, and only that amount, regardless of the well or wells in the unit area from which it may be produced and regardless of whether it be more or less than the amount of the production from the well or wells, if any, on any such separately-owned tract, shall for all intents, uses and purposes be regarded and considered as production from such separately-owned tract, and, except as may be otherwise authorized in this Act, or in the plan of unitization approved by the Commission, shall be distributed among or the proceeds thereof paid to the several persons entitled to share in the production from such separately-owned tract in the same manner, in the same proportions, and upon the same condition that they would have participated and shared in the production or proceeds thereof from such separately-owned tract had not said unit been organized,

and with the same legal force and effect. If adequate provisions are made for the receipt thereof, the share of the unit production allocated to each separately-owned tract shall be delivered in kind to the persons entitled thereto by virtue of ownership of oil and gas rights therein or by purchase from such owners subject to the rights of the unit to withhold and sell the same in payment of unit expense pursuant to the plan of unitization, and subject further to the call of the unit on such portions of the gas for operating purposes as may be provided in the plan of unitization.

12. No agreement or plan for the development and operation of a field or pool of oil or gas as a unit, if approved by the Commission for the purpose of conserving oil or gas, shall be held to violate any of the statutes of this Territory prohibiting monopolies or acts arrangements, agreements, contracts combinations or conspiracies in restraint of trade or commerce.

13. Operations carried on under and in accordance with the plan of unitization shall be regarded and considered as a fulfillment of a compliance with all of the provisions, covenants and conditions, express or implied, of the several oil and gas leases upon lands included with the unit area, or other contracts pertaining to the development thereof insofar as said leases or other contracts may relate to the pool or portion thereof

included in the unit area. Wells drilled or operated on any part of the unit area no matter where located shall for all purposes be regarded as wells drilled on each separately-owned tract within such unit area.

14. Nothing herein or in any plan of unitization shall be construed as increasing or decreasing the implied covenants of a lease in respect to a common source of supply or lands not included within the unit area of a unit.

15. The unit area of a unit may be enlarged to include adjoining portions of the same pool, including the unit area of another unit, and a new unit created for the unitized management, operation and further development of such enlarged unit area, or the plan of unitization may be otherwise amended, all in the same manner, upon the same conditions and subject to the same limitations as herein provided with respect to the creation of a unit in the first instance; except that where the amendment to the plan of unitization relates only to the rights and obligations as between lessees the requirement that the same be signed, ratified and approved by royalty owners of record of not less than 62.5 percent of the unit area shall have no application.

Section 8. Use of Gas From Well to Manufacture Carbon Products Without Permit is Prima Facie Waste. The use of gas from a well

producing gas only, or from a well which is primarily a gas well, for the manufacture of carbon black or similar products predominantly carbon, is declared to constitute waste prima facie, and such gas well shall not be used for any such purpose unless it is clearly shown at a public hearing to be held by the Commission, on application of the person desiring to use such gas, that waste would not take place by the use of such gas for the purpose or purposes applied for, and that gas which would otherwise be lost is now available for such purpose or purposes, and that the gas to be used can not be used for a more beneficial purpose, such as for light or fuel purposes, except at prohibitive cost, and that it would be in the public interest to grant such permit. If the Commission finds that the applicant has clearly shown a right to use such gas for the purpose or purposes applied for, it shall issue a permit upon such terms and conditions as may be found necessary in order to permit the use of the gas and at the same time require compliance with the intent of this section.

Section 9. Rules and Regulations of Commission; Notice; Hearing and Entry of Order.

1. The Commission shall prescribe rules and regulations governing practice and procedure before the Commission.

2. No rule, regulation or order, or amendment thereof, except in an

emergency, shall be made by the Commission without a public hearing upon at least 10 days notice. The public hearing shall be held at such time and place as may be prescribed by the Commission, and any interested person shall be entitled to be heard.

3. When an emergency requiring immediate action is found to exist, the Commission is authorized to issue an emergency order without notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective for more than 15 days.

4. Any notice required by this Act shall be given by personal service on all interested persons; and in the event such personal service cannot be made, then substituted service may be made in the manner provided for substitute service of process under the Alaska rules of civil procedure. The notice shall issue in the name of the Territory, shall be signed by the Commission, and shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding.

5. All rules, regulations and orders issued by the Commission shall be in writing, shall be entered in full and indexed in books to be kept by the Commission for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of any rule, regula-

tion or order certified by the Commission, under its seal, shall be received in evidence in all courts of this Territory with the same effect as the original.

6. The Commission may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the Commission, the Commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The Commission shall enter its order within 30 days after the hearing.

Section 10. Attendance and Testimony of Witnesses; Production of Books and Records; Punishment for Contempts.

1. The Commission shall have power to summon witnesses, to administer oaths, and to require the production of records, books and documents for examination at any hearing or investigation conducted by it. No person shall be excused from attending and testifying, or from producing books, papers and records before the Commission or a court, or from obedience to the subpoena of the Commission or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided,

that nothing herein contained shall be construed as requiring any person to produce any books, papers or records, or to testify in response to any inquiry not pertinent to some question lawfully before such Commission or court for determination. No natural person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in spite of his objection, he may be required to testify or produce evidence, documentary or otherwise, before the Commission or court, or in obedience to its subpoena; provided that no person testifying shall be exempted from prosecution and punishment for perjury committed in so testifying.

2. In case of failure or refusal on the part of any person to comply with the subpoena issued by the Commission, or in case of the refusal of any witness to testify as to any matter regarding which he may be interrogated, any court of record in the Territory, upon application of the Commission, may issue an attachment for such person and compel him to comply with such subpoena, and to attend before the Commission and produce such records, books and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

Section 11. **Rehearings and Ap-**

peals; Suspension of Commission Order.

1. Within 20 days after written notice of the entry of any order or decision of the Commission, or such further time as the Commission may grant for good cause shown, any person affected thereby may file with the Commission an application for the rehearing in respect of any matter determined by such order or decision, setting forth the respect in which such order or decision is believed to be erroneous. The Commission shall grant or refuse any such application in whole or in part within 10 days after the same is filed, and failure to act thereon within such period is deemed a refusal thereof and a final disposition of such application. In the event the hearing is granted, the Commission may enter such new order or decision after rehearing as may be required under the circumstances.

2. Any party to such rehearing proceedings, dissatisfied with the disposition of the application for rehearing, may appeal therefrom to the district court of the division wherein is located any property affected by the decision of the Commission, by filing a petition for the review of the action of the Commission within 20 days after the entry of the order following rehearing or after the refusal of rehearing as the case may be. Such petition shall state briefly the nature of the proceedings before the Commission and shall set forth the

order or decision of the Commission complained of and the grounds of invalidity thereof upon which the applicant will rely; provided, however, that the questions reviewed on such appeal shall be only questions presented to the Commission by the application for rehearing. Notice of such appeal shall be served upon the adverse party or parties and the Commission in the manner provided for the service of summons in civil proceedings. The trial upon appeal shall be without a jury, and the transcript of proceedings before the Commission, including the evidence taken in hearings by the Commission, shall be received in evidence by the court in whole or in part upon offer by either party, subject to legal objections to evidence, in the same manner as if such evidence was originally offered in the district court. The Commission's action complained of shall be prima facie valid and the burden shall be placed upon the party or parties seeking review to establish the invalidity of such action of the Commission. The court shall determine the issues of fact and of law and shall, upon a preponderance of the evidence introduced before the court, which may include evidence in addition to the transcript of proceedings before the Commission, and the law applicable thereto, enter its order either affirming or vacating the order of the Commission. Appeals may be taken from the judgment or decision of the district court in the same manner as pro-

vided for appeals from any other final judgment entered by a district court in this Territory.

3. The pendency of proceedings to review shall not of itself stay or suspend operation of the order or decision being reviewed, but during the pendency of such proceedings, the district court in its discretion may, upon its own motion or upon proper application of any party thereto, stay or suspend, in whole or in part, operation of the order or decision pending review thereof, on such terms as the court deems just and proper and in accordance with the rules of civil procedure; provided, that the court, as a condition to any such staying or suspension of operation of any order or decision, may require that one or more parties secure, in such form and amount as the court may deem just and proper, one or more other parties against loss or damage due to the staying or suspension of the Commission's order or decision, in the event that the action of the Commission shall be affirmed.

4. The applicable rules of practice and procedure in civil cases for the courts of this Territory shall govern the proceedings for review, and any appeal therefrom to the extent such rules are consistent with provisions of this Act.

Section 12. Penalties.

1. Any person who wilfully vio-

lates any provision of this Act, or any rule, regulation or order of the Commission shall be subject to a penalty of not more than \$1,000 for each act of violation and for each day that such violation continues, unless the penalty for such violation is otherwise provided for and made exclusive in this Act.

2. If any person, for the purpose of evading this Act, or any rule, regulation or order of the Commission, shall wilfully make or cause to be made any false entry in any record, account or memorandum required by this Act, or by any such rule, regulation or order, or shall wilfully omit, or cause to be omitted, from any such record, account or memorandum, full, true and correct entries as required by this Act, or by any such rule, regulation or order, or shall remove from this Territory or destroy, mutilate, alter or falsify any such record, account or memorandum, such person shall be guilty of a misdemeanor and, upon conviction thereof shall be punished by a fine not exceeding \$5,000, or imprisonment in the federal jail for any term not exceeding 6 months, or by both such fine and imprisonment.

3. Any person knowingly aiding or abetting any other person in the violation of any provision of this Act, or any rule, regulation or order of the Commission shall be subject to the same penalty as that prescribed by this Act for the violation by such other person.

4. The penalties provided in this section shall be recoverable by suit filed by the Attorney General in the name and on behalf of the Commission in the district court of the division in which the defendant resides or in which any defendant resides, if there be more than one defendant, or in the district court of any division in which the violation occurred. The payment of any such penalty shall not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation.

Section 13. **Injunctive Relief.**

1. Whenever it appears that any person is violating or threatening to violate any provision of this Act, or any rule, regulation or order of the Commission, the Commission shall bring suit against such person in the district court of any division where the violation occurs or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. Upon the filing of any such suit, summons issued to such person may be directed to the marshal of any division in this Territory for service by such marshal or his deputies. In any such suit, the court shall have jurisdiction to grant to the Commission, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant.

2. If the Commission shall fail to

bring suit to enjoin a violation or threatened violation of any provision of this Act, or any rule, regulation or order of the Commission within 10 days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring suit in his own behalf to restrain such violation or threatened violation in any court in which the Commission might have brought suit. If, in such suit, the court should hold that injunctive relief should be granted, then the Commission shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the Commission had at all times been the plaintiff.

Section 14. Application of Act; Lands Subject to United States Jurisdiction.

This Act shall apply to all lands in the Territory of Alaska lawfully subject to its police powers; provided, it shall apply to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its lands shall fail to effect the intent and purposes of this Act and otherwise shall apply to such lands to such extent as an officer of the United States having jurisdiction, or his duly authorized representative, shall approve any of

the provisions of this Act or the order or orders of the Commission which affects such lands.

Section 15. Oil and Gas Conservation Fund; Tax on Gas and Oil Produced.

1. All moneys collected under the provisions of this Act shall be remitted to the Territorial Treasurer, and by him shall be credited to a special fund known as the Oil and Gas Conservation Fund, which fund is hereby created. All moneys credited to that fund shall be expended for the purposes of administering the provisions of this Act. The Territory of Alaska is hereby declared affiliated with the Interstate Oil Compact Commission, as an associate (non-producing) member, and any and all expenses in connection with this affiliation shall be paid from the above fund. All moneys in the Oil and Gas Conservation Fund are appropriated to the Alaska Oil and Gas Conservation Commission. No such moneys shall revert to the general fund at the end of any fiscal period, but shall remain in the Oil and Gas Conservation Fund to cover future operating expenses of the Commission. All moneys hereby appropriated shall be expended under the direction of the Commission in accordance with statutes of this Territory relating to the expenditure of appropriations, and warrants shall be drawn against said appropriation as now provided by law.

2. For the purpose of paying the

expenses of administration of this Act, every producer of oil or natural gas in this Territory shall on or before the last day of each month report to the Commission and to the Territorial Treasurer his or its production in this Territory of oil in barrels and of natural gas in thousands of cubic feet during the preceding month, and at the same time shall pay to the Territorial Treasurer a tax on each and every barrel of oil and on each and every 50,000 cubic feet of natural gas produced and marketed by him or it during such preceding month. Every person purchasing such oil or natural gas shall be liable for the payment of the tax per barrel of oil or per 50,000 cubic feet of natural gas, unless it shall have previously been paid by the producer. The tax rate shall be five mills (\$.0005) per barrel of oil or per 50,000 cubic feet of natural gas.

3. For the purpose of paying expenses incidental to the establishment of the Commission, funds shall be provided by direct legislative appropriation from the gen-

eral fund.

Section 16. **Repeal.**

All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Section 17. **Separability of Provisions.**

If any section, subsection, sentence, clause, phrase or word of this Act is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed this Act, and each division, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words might be adjudged to be unconstitutional, or for any other reason invalid.

Section 18. **Effective Date.**

This Act shall become effective April 1, 1955, upon its passage and approval.

Approved March 15, 1955

CHAPTER 41

AN ACT

To provide reciprocity between this Territory and other states and territories in the matter of authority, jurisdiction and procedure for