

or modify any provision of any order issued hereunder. Any such order shall provide for the allocation of unit production on a just and equitable basis to each separately owned tract within the unit. The applicant shall, in all cases, have the burden of proof that the existing unit or order should be revised, confirmed, dissolved, or amended in the manner proposed in the application. If the commissioner determines that the unit operator has not substantially complied with the plan of development, the unit operator shall be required to show cause why the unit should not be reduced in size.

(11) The provisions of Subsection A of this Section shall not be applicable to any unit well drilled in a unit established pursuant to this Subsection.

(12) The commissioner shall prescribe, issue, amend, and rescind such orders, rules, and regulations as he may find necessary or appropriate to carry out the provisions of this Subsection.

(13) While the provisions of this Subsection authorize the initial creation of a single unit to be served by one or more wells, nothing herein shall be construed as limiting the authority of the commissioner to approve the drilling of alternate unit wells on drilling units established pursuant to R.S. 30:9(B).

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<< LA R.S. 30:10 >>

§ 10. Agreements for drilling units; pooling interests; terms and conditions; expenses

A. When two or more separately owned tracts of land are embraced within a drilling unit which has been established by the commissioner as provided in R.S. 30:9(B), the owners may validly agree by separate contract to pool, drill, and produce their interests and to develop their lands as a drilling unit.

(1) Where the owners have not agreed by separate contract to pool, drill, and produce their interests, the commissioner shall require them to do so and to develop their lands as a drilling unit, if he finds it to be necessary to prevent waste or to avoid drilling unnecessary wells.

(a) All orders requiring pooling shall be made after notice and hearing. They shall be upon terms and conditions that are just and reasonable and that will afford 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. They shall prevent or minimize reasonable avoidable drainage from each developed tract which is not equalized by counter drainage.

(b) The portion of the production allocated to the owner 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 his tract by a well drilled thereon.

(2) In the event pooling is required, a drilling unit is formed by a pooling order by the commissioner and absent any agreement or contract between owners as provided in this Section, then the cost of development and operation of the pooled unit chargeable to the owners therein shall be determined and recovered as provided herein.

(a)(i) Any owner drilling or intending to drill a unit well, including a substitute unit well, an alternate unit well, or a cross-unit well on any drilling unit heretofore or hereafter created by the commissioner, may, by certified registered mail, return receipt requested, or other form of guaranteed delivery and notification method, not including electronic communication or mail, notify all other owners in the unit prior to the actual spudding of any such well of the drilling or the intent to drill and give each owner an opportunity to elect to participate in the risk and expense of such well. Such notice shall contain:

(aa) An authorization for expenditure form (AFE), which shall include a detailed estimate of the cost of drilling, testing, completing, and equipping the unit such proposed well. The AFE shall be dated within one hundred twenty days of the date of the mailing of the notice;

(bb) The proposed location of the unit well;

(cc) The proposed objective depth of the unit well; and

(dd) An estimate of ownership as a percentage of expected unit size or approximate percentage of well participation;

(ee) In the event that the proposed well is being drilled or drilled at the time of the notice, then a copy of all available AH logs, core analysis, production data, and well test data from the unit well which has not been made public.

(ii) Such An election to participate must be exercised by mailing written notice thereof by certified registered mail, return receipt requested, or other form of guaranteed delivery and notification method, not including electronic communication or mail, to the owner drilling or intending to drill the unit proposed well within thirty days after receipt of the initial notice. Failure to give timely written notice of the election to participate shall be deemed to be an election not to participate and the owner shall be deemed a nonparticipating owner.

(iii) Another initial notice must be sent in order for the provisions of this Subsection to apply if If the drilling of the proposed unit well is not commenced in accordance with the initial notice within ninety days after receipt of the initial notice, then the drilling owner shall send a supplemental notice in order for the provisions of this Subsection to apply.

(b)(i) Should a notified owner elect not to participate in the risk and expense of the unit well, substitute unit well, alternate unit well, or cross-unit well or should such owner elect to participate in the risk and expense of the unit proposed well and but then fail to pay his share of such expenses the drilling costs determined by the AFE within sixty days of the spudding of the well or fail to pay his share of subsequent drilling, completion, and operating expenses within sixty days of receipt of subsequent detailed invoices, then such owner shall be deemed a nonparticipating owner, and the drilling owner drilling same shall, in addition to any other available legal remedies to enforce collection of such expenses, be entitled to own and recover out of production from such unit well allocable to the tract belonging under lease to the nonparticipating owner such tract's allocated share of the actual reasonable expenditures incurred in drilling, testing, completing, equipping, and operating the unit well, including a charge for supervision, together with a risk charge, which . The risk charge for a unit well, substitute unit well, or cross-unit well that will serve as the unit well or substitute well for the unit shall be two hundred percent of such tract's allocated share of the cost of drilling, testing, and completing the unit well, exclusive of amounts the drilling owner remits to the nonparticipating owner for the benefit of the nonparticipating owner's royalty and overriding royalty owner. The risk charge for an alternate unit well or cross-unit well that will serve as an alternate unit well for the unit shall be one hundred percent of such tract's allocated share of the cost of drilling, testing, and completing such well, exclusive of amounts the drilling owner remits to the nonparticipating owner for the benefit of the nonparticipating owner's royalty and overriding royalty owner.

(ii)(aa) During the recovery of the actual reasonable expenditures incurred in drilling, testing, completing, equipping, and operating the well, the charge for supervision, and the risk charge, the nonparticipating owner shall be entitled to receive from the drilling owner for the benefit of his lessor royalty owner that portion of production due to the lessor royalty owner under the terms of the contract or agreement creating the royalty between the royalty owner and the nonparticipating owner reflected of record at the time of the well proposal.

(bb) In addition, during the recovery set forth in Subsection (ii)(aa) of this Subparagraph, the nonparticipating owner shall receive from the drilling owner for the benefit of the overriding royalty owner the lesser of: (I) the nonparticipating owner's total percentage of actual overriding royalty burdens associated with the existing lease or leases which cover each tract attributed

to the nonparticipating owner reflected of record at the time of the well proposal; or (II) the difference between the weighted average percentage of the total actual royalty and overriding royalty burdens of the drilling owner's leasehold within the unit and the nonparticipating owner's actual leasehold royalty burdens reflected of record at the time of the well proposal.

(cc) The share that is to be received by the nonparticipating owner on behalf of its lessor royalty owner and overriding royalty owner shall be reported by the drilling owner in accordance with Part 2–B of Chapter 13 of Title 31 of the Louisiana Revised Statutes of 1950.

(dd) Nothing in this Section shall relieve any lessee of its obligations to pay, from the commencement of production, any lessor royalty and overriding royalty due under the terms of his lease, and other agreements during the recovery of actual well costs and the risk charge, or shall relieve any lessee of his obligation to pay all royalty and overriding royalty due under the terms of his lease and other agreements after the recovery of the actual well costs and the risk charge. Except as provided in this Paragraph, the drilling owner's obligation to pay the royalty and the overriding royalty to the nonparticipating owner in no way creates an obligation, duty, or relationship between the drilling owner and any person to whom the nonparticipating owner is liable to, contractually or otherwise.

(ee) In the event of nonpayment by the nonparticipating owner of the royalty and overriding royalty due, the lessor royalty owner and overriding royalty owner shall provide written notice of such failure to the nonparticipating owner and drilling owner as a prerequisite to a judicial demand for damages. The lessor royalty owner and overriding royalty owner shall follow the same procedure and have the same remedies provided in Part 6 of Chapter 7 of Title 31 of the Louisiana Revised Statutes of 1950 or Part 2–A of Chapter 13 of Title 31 of the Louisiana Revised Statutes of 1950, respectively, against the nonparticipating owner and the drilling owner. If the drilling owner provides sufficient proof of payment of the royalties to the nonparticipating owner, then the lessor royalty owner and overriding royalty owner shall have no cause of action against the drilling owner for nonpayment.

(ff) In the event of nonpayment by the drilling owner of the royalty and overriding royalty due to the nonparticipating owner for the benefit of the lessor royalty owner and overriding royalty owner, and payment by the nonparticipating owner of the royalty and overriding royalty due, the nonparticipating owner shall provide written notice of such failure to pay to the drilling owner as a prerequisite to a judicial demand for damages. The drilling owner shall have thirty days after receipt of the required notice within which to pay the royalties due or to respond in writing by stating a reasonable cause for nonpayment. If the drilling owner fails to make payment of the royalties or fails to state a reasonable cause for nonpayment within this period, the court may award to the nonparticipating owner as damages double the amount of royalties due, interest on that sum from the date due, and a reasonable attorney fee regardless of the cause for the original failure to pay royalties. If the drilling owner provides sufficient proof of payment of the royalties to the nonparticipating owner, then the nonparticipating owner shall have no cause of action against the drilling owner for nonpayment.

(iii) Any owner not notified shall bear only his tract's allocated share of the actual reasonable expenditures incurred in drilling, testing, completing, equipping, and operating the unit well, including a charge for supervision, which share shall be subject to the same obligation and remedies and rights to own and recover out of production in favor of the drilling party or parties as hereinabove provided in this Subsection. A participating owner shall deliver to the owner whom has not been notified the proceeds attributable to his royalty and overriding royalty burdens as described in this Section.

(c) Should a drilling unit be created by order of the commissioner around a well already drilled or drilling and including one or more tracts as to which the owner or owners thereof had not participated in the risk and expense of drilling such well, then within sixty days of the date of the order creating such unit the provisions hereinabove of this Subsection for notice, election, and participation shall be applicable as if a unit well were being proposed by the owner who drilled or was drilling such well; however, the cost of drilling, testing, completing, equipping, and operating the well allocable to each tract included in the unit

shall be reduced in the same proportion as the recoverable reserves in the unitized pool have been recovered by prior production, if any, in which said tract or tracts did not participate prior to determining the share of cost allocable to such tract or tracts.

(d)(i) Should a drilling unit be revised by order of the commissioner so as to include an additional tract or tracts, then within sixty days of the date of the order revising such unit the provisions hereinabove of this Subsection for notice, election, and participation shall be applicable to such added tract or tracts and the owner thereof as if a unit well were being proposed by the owner who had drilled the unit well; however, the cost of drilling, testing, completing, equipping, and operating the unit well shall be reduced in the same proportion as the recoverable reserves in the unitized pool have been recovered by prior production, if any, in which said tract or tracts did not participate prior to determining the share of cost allocable to the subsequently included tract or tracts.

(ii) Should a drilling unit be revised by order of the commissioner as to exclude a tract or tracts, the cost of drilling, testing, completing, equipping, and operating the unit well shall be reduced in the same proportion as the recoverable reserves in the unitized pool have been recovered by prior production to determine the share of cost allocable to the subsequently excluded tract or tracts.

(e)(i) The provisions of Paragraph 2(b) above Subparagraph (b) of this Paragraph with respect to the risk charge shall not apply to any unleased interest not subject to an oil, gas, and mineral lease.

(ii) Notwithstanding the provisions of Paragraph 2(b) above Subparagraph (b) of this Paragraph, the royalty owner and overriding royalty owner shall receive that portion of production due to them under the terms of the contract creating the royalty.

(f) In the event of a dispute relative to the calculation of unit well costs or depreciated unit well costs, the commissioner shall determine the proper costs after notice to all interested owners and a public hearing thereon.

(g) Nothing contained herein shall have the effect of enlarging, displacing, varying, altering, or in any way whatsoever modifying or changing the rights and obligations of the parties thereto under any contract between or among owners having a tract or tracts in the unit.

(h) The owners in the unit to whom the notice provided for hereinabove may be sent, are the owners of record as of the date on which the notice is sent.

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Approved June 12, 2012.

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