

**§ 47B-3. Exceptions.**

Such marketable record title shall not affect or extinguish the following rights:

...

(5) Rights of any owners of mineral rights.

...

(1973, c. 255, s. 1; 1995, c. 443, s. 3.)

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**§ 113-378. Persons drilling for oil or gas to register and furnish bond.**

Any person, firm or corporation before making any drilling exploration in this State for oil or natural gas shall register with the Department of Environment and Natural Resources or such other State agency as may hereafter be established to control the conservation of oil or gas in this State. To provide for such registration, the drilling operator must furnish the name and address of such person, firm or corporation, and the location of the proposed drilling operations, and file with the aforesaid Department a bond in the amount of five thousand dollars (\$5,000) running to the State of North Carolina, conditioned that any well opened by the drilling operator upon abandonment shall be plugged in accordance with the rules of said Department.

(1945, c. 765, s. 2; 1971, c. 813, s. 1; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1987, c. 827, s. 110; 1989, c. 727, s. 118; 1997-443, s. 11A.119(a).)

**§ 113-379. Filing log of drilling and development of each well.**

Upon the completion or shutting down of any abandoned well, the drilling operator shall file with the Department or other State agency, or with any division thereof hereinafter created for the regulation of drilling for oil or natural gas, a complete log of the drilling and development of each well.

(1945, c. 765, s. 3; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 119.)

**§ 113-380. Violation a misdemeanor.**

Any person, firm or officer of a corporation violating any of the provisions of G.S. 113-378 or 113-379, shall upon conviction thereof be guilty of a Class 1 misdemeanor.

(1945, c. 765, s. 4; 1971, c. 813, s. 2; 1993, c. 539, s. 870; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 113-381. Title.**

This law shall be designated and known as the Oil and Gas Conservation Act.

(1945, c. 702, s. 1.)

**§ 113-382. Declaration of policy.**

In recognition of imminent evils that can occur in the production and use and waste of natural oil and/or gas in the absence of equal or correlative rights of owners of crude oil or natural gas in a common source of supply to produce and use the same, and in the absence of adequate measures for the protection of the environment, this law is enacted for the protection of public interests against such evils by prohibiting waste and compelling ratable production and authorizing regulations for the protection of the environment.

(1945, c. 702, s. 2; 1971, c. 813, ss. 3, 4.)

**§ 113-387. Production of crude oil and gas regulated; tax assessments.**

All common sources of supply of crude oil discovered after January 1, 1945, if so found necessary by the Department, shall have the production of oil therefrom controlled or regulated in accordance with the provisions of this law, and the Department is hereby authorized to assess from time to time against each barrel of oil produced and saved a tax not to exceed five mills on each barrel. All moneys so collected shall be used solely to pay the expenses and other costs in connection with the administration of this law.

All common sources of supply of natural gas discovered after January 1, 1945, if so found necessary by the Department, shall have the production of gas therefrom controlled or regulated in accordance with the provisions of this law, and the Department is hereby authorized to assess from time to time against each 1000 cubic feet of gas produced and saved from a gas well a tax not to exceed one-half mill on each 1000 cubic feet of gas. All moneys so collected shall be used solely to pay the expenses and other costs in connection with the administration of this law.

(1945, c. 702, s. 7; 1973, c. 1262, s. 86.)

**§ 113-388. Collection of assessments.**

Any person purchasing oil or gas in this State at the well, under any contract or agreement requiring payment for such production to the respective owners thereof, in respect of which production any sums assessed under the provisions of G.S. 113-387 are payable to the Department, is hereby authorized, empowered and required to deduct from any sums so payable to any such person the amount due the Department by virtue of any such assessment and remit that sum to the Department. Further, any person taking oil or gas from any well in this State for use or resale, in respect of which production any sums assessed under the provisions of G.S. 113-387 are payable to the Department, shall remit any sums so due to the Department in accordance with those rules of the Department which may be adopted in regard thereto.

(1945, c. 702, s. 8; 1973, c. 1262, s. 86; 1987, c. 827, s. 110.)

**§ 113-389. Definitions.**

Unless the context otherwise requires, the words defined in this section shall have the following meaning when found in this law:

(1) "Department" shall mean the "Department of Environment and Natural Resources," as created by this law.

(2) "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one pool; and "field" shall include the underground reservoir or reservoirs containing crude petroleum oil or natural gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; "field," unlike "pool," may relate to two or more pools.

(3) "Gas" shall mean all natural gas, including casing-head gas, and all other hydrocarbons not defined as oil in subdivision (7).

(4) "Illegal gas" shall mean gas which has been produced within the State of North Carolina from any well during any time that well has produced in excess of the amount allowed by any rule, regulation or order of the Department, as distinguished from gas produced within the State of North Carolina from a well not producing in excess of the amount so allowed, which is "legal gas."

(5) "Illegal oil" shall mean oil which has been produced within the State of North Carolina from any well during any time that that well has produced in excess of the amount allowed by rule, regulation or order of the Department, as distinguished from oil produced within the State of North Carolina from a well not producing in excess of the amount so allowed, which is "legal oil."

(6) "Illegal product" shall mean any product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal oil or illegal gas or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(7) "Oil" shall mean crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

(8) "Owner" shall mean the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and others.

(9) "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind.

(10) "Pool" shall mean an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a

general structure which is completely separated from the other zone in the structure is covered by the term "pool" as used herein.

(11) "Producer" shall mean the owner of a well or wells capable of producing oil or gas, or both.

(12) "Product" means any commodity made from oil or gas and shall include refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casing-head gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.

(13) "Tender" shall mean a permit or certificate of clearance for the transportation of oil, gas or products, approved and issued or registered under the authority of the Department.

(14) "Waste" in addition to its ordinary meaning, shall mean "physical waste" as that term is generally understood in the oil and gas industry. It shall include:

a. The inefficient, excessive or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner which results, or tends to result, in reducing inefficiently the quantity of oil or gas ultimately to be recovered from any pool in this State.

b. The inefficient storing of oil, and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.

c. Abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals causing undue drainage between tracts of land.

d. Producing oil or gas in such manner as to cause unnecessary water channelling or coning.

e. The operation of any oil well or wells with an inefficient gas-oil ratio.

f. The drowning with water of any stratum or part thereof capable of producing oil or gas.

g. Underground waste however caused and whether or not defined.

h. The creation of unnecessary fire hazards.

i. The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

j. Permitting gas produced from a gas well to escape into the air.

(1945, c. 702, s. 9; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(59); 1997-443, s. 11A.119(a).)

#### **§ 113-390. Waste prohibited.**

Waste of oil or gas as defined in this law is hereby prohibited.

(1945, c. 702, s. 10.)

#### **§ 113-391. Jurisdiction and authority; rules and orders.**

(a) The Department shall have jurisdiction and authority of and over all persons and property necessary to administer and enforce effectively the provisions of this law and all other laws relating to the conservation of oil and gas.

(b) The Department shall have the authority and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste over which it has jurisdiction exists or is imminent. In the exercise of such power the Department shall have the authority to collect data; to make investigations and inspections; to examine properties, leases, papers, books and records; to examine, check, test and gauge oil and gas wells, tanks, refineries, and means of transportation; to hold hearings; and to provide for the keeping of records and the making of reports; and to take such action as may be reasonably necessary to enforce this law.

(c) The Department may make rules and orders as may be necessary from time to time in the proper administration and enforcement of this law, including rules or orders for the following purposes:

(1) To require the drilling, operation, casing and plugging of wells to be done in such manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water into an oil or gas stratum from a separate stratum; to prevent the pollution of freshwater supplies by oil, gas or salt water, or to protect the quality of the water, air, soil or any other environmental resource against injury or damage or impairment; and to require reasonable bond condition for the performance of the duty to plug each dry or abandoned well.

(2) To require directional surveys upon application of any owner who has reason to believe that a well or wells of others has or have been drilled into the lands owned by him or held by him under lease. In the event such surveys are required, the costs thereof shall be borne by the owners making the request.

(3) To require the making of reports showing the location of oil and gas wells, and the filing of logs and drilling records.

(4) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas in paying quantities, and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(5) To require the operation of wells with efficient gas-oil ratios, and to fix such ratios.

(6) To prevent "blow-outs," "caving" and "seepage" in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(7) To prevent fires.

(8) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures and all storage and transportation equipment and facilities.

(9) To regulate the "shooting," perforating, and chemical treatment of wells.

(10) To regulate secondary recovery methods, including the introduction of gas, air, water or other substances into producing formations.

(11) To limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as herein defined.

(12) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation of oil or gas.

(13) To regulate the spacing of wells and to establish drilling units.

(14) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counter-drainage.

(15) To prevent where necessary the use of gas for the manufacture of carbon black.

(16) To regulate and, if necessary in its judgment for the protection of unique environmental values, to prohibit the location of wells in the interest of protecting the quality of the water, air, soil or any other environmental resource against injury, or damage or impairment.

(1945, c. 702, s. 11; 1971, c. 813, ss. 5, 6; 1973, c. 1262, s. 86; 1987, c. 827, s. 111; 1989, c. 727, s. 120.)

**§ 113-392. Protecting pool owners; drilling units in pools; location of wells; shares in pools.**

(a) Whether or not the total production from a pool be limited or prorated, no rule or order of the Department shall be such in terms or effect

(1) That it shall be necessary at any time for the producer from, or the owner of, a tract of land in the pool, in order that he may obtain such tract's just and equitable share of the production of such pool, as such share is set forth in this section, to drill and operate any well or wells on such tract in addition to such well or wells as can produce without waste such share, or

(2) As to occasion net drainage from a tract unless there be drilled and operated upon such tract a well or wells in addition to such well or wells thereon as can produce without waste such tract's just and equitable share, as set forth in this section, of the production of such pool.

(b) For the prevention of waste and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the Department shall, after a hearing, establish a drilling unit or units for each pool. The Department may establish drainage units of uniform size for the entire pool or may, if the facts so justify, divide into zones any pool, establish a drainage unit for each zone, which unit may differ in size from that established in any other zone; and the Department may from time to time, if the facts so justify, change the size of the unit established for the entire pool or for any zone or zones, or part thereof, establishing new zones and units if the facts justify their establishment.

(c) Each well permitted to be drilled upon any drilling unit shall be drilled approximately in the center thereof, with such exception as may reasonably be necessary where it is shown, after notice and upon hearing, and the Department finds that the unit is partly outside the pool or, for some other reason, a well approximately in the center of the unit would be nonproductive or where topographical conditions are such as to make the drilling approximately in the center of the unit unduly burdensome. Whenever an exception is granted, the Department shall take such action as will offset any advantage which the person securing the exception may have over 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 his just and equitable share of the oil and gas in the pool, as such share is set forth in this section.

(d) Subject to the reasonable requirements for prevention of waste, a producer's just and equitable share of the oil and gas in the pool (also sometimes referred to as a tract's just and equitable share) is that part of the authorized production for the pool (whether it be the total which could be produced without any restriction on the amount of production, or whether it be an amount less than that which the pool could produce if no restriction on the amount were imposed) which is substantially in the proportion that the quantity of recoverable oil and gas in the developed

area of his tract in the pool bears to the recoverable oil and gas in the total developed area of the pool, insofar as these amounts can be ascertained practically; and to that end, the rules, permits and orders of the Department shall be such as will prevent or minimize reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counter-drainage), and will give to each producer the opportunity to use his just and equitable share of the reservoir energy.

(1945, c. 702, s. 12; 1973, c. 1262, s. 86; 1987, c. 827, s. 112.)

**§ 113-393. Development of lands as drilling unit by agreement or order of Department.**

(a) Integration of Interests and Shares in Drilling Unit. — When two or more separately owned tracts of land are embraced within an established drilling unit, the owners thereof may agree validly to integrate their interests and to develop their lands as a drilling unit. Where, however, such owners have not agreed to integrate their interests, the Department shall, for the prevention of waste or to avoid drilling of unnecessary wells, require such owners to do so and to develop their lands as a drilling unit. All orders requiring such integration shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and 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, and will prevent or minimize reasonably avoidable drainage from each developed unit which is not equalized by counter-drainage. The portion of the production allocated to the owner of each tract included in a drilling unit formed by an integration order shall, when produced, be considered as if it had been produced from such tract by a well drilled thereon. In the event such integration is required, and provided also that after due notice to all the owners of tracts within such drilling unit of the creation of such drilling unit, and provided further that the Department has received no protest thereto, or request for hearing thereon, whether or not 10 days have elapsed after notice has been given of the creation of the drilling unit, the operator designated by the Department to develop and operate the integrated unit shall have the right to charge to each other interested owner the actual expenditures required for such purpose not in excess of what are reasonable, including a reasonable charge for supervision, and the operator shall have the right to receive the first production from the well drilled by him thereon, which otherwise would be delivered or paid to the other parties jointly interested in the drilling of the well, so that the amount due by each of them for his shares of the expense of drilling, equipping, and operating the well may be paid to the operator of the well out of production; with the value of the production calculated at the market price in the field at the time such production is received by the operator or placed to his credit. After being reimbursed for the actual expenditures for drilling and equipping and operating expenses incurred during the drilling operations and until the operator is reimbursed, the operator shall thereafter pay to the owner of each tract within the pool his ratable share of the production calculated at the market price in the field at the time of such production less the reasonable expense of

operating the well. In the event of any dispute relative to such costs, the Department shall determine the proper costs.

(b) When Each Owner May Drill. - Should the owners of separate tracts embraced within a drilling unit fail to agree upon the integration of the tracts and the drilling of a well on the unit, and should it be established that the Department is without authority to require integration as provided for in subsection (a) of this section, then, subject to all other applicable provisions of this law, the owner of each tract embraced within the drilling unit may drill on his tract, but the allowable production from each tract shall be such proportion of the allowable for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

(c) Cooperative Development Not in Restraint of Trade. -

Agreements made in the interests of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate holdings in the same oil or gas pool, or in any area that appears from geological or other data to be underlaid by a common accumulation of oil or gas, or both, or between and among such owners or operators, or both, and royalty owners therein, of a pool or area, or any part thereof, as a unit for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the Department, are hereby authorized and shall not be held or construed to violate any of the statutes of this State relating to trusts, monopolies, or contracts and combinations in restraining of trade.

(d) Variation from Vertical. - Whenever the Department fixes the location of any well or wells on the surface, the point at which the maximum penetration of such wells into the producing formation is reached shall not unreasonably vary from the vertical drawn from the center of the hole at the surface, provided, that the Department shall prescribe rules and orders governing the reasonableness of such variation.

(1945, c. 702, s. 13; 1973, c. 1262, s. 86; 1987, c. 827, s. 112.)

**§ 113-394. Limitations on production; allocating and prorating "allowables."**

(a) Whenever the total amount of oil, including condensate, which all the pools in the State can produce, exceeds the amount reasonably required to meet the reasonable market demand for oil, including condensate, produced in this State, then the Department shall limit the total amount of oil, including condensate, which may be produced in the State by fixing an amount which shall be designated "allowable" for this State, which will not exceed the reasonable market demand for oil, including condensate, produced in this State. The Department shall then allocate or distribute the "allowable" for the State among the pools on a reasonable basis and in such manner as to avoid undue discrimination, and so that waste will be prevented. In allocating the "allowable" for the State, and in fixing "allowables" for pools producing oil or hydrocarbons forming condensate, or both oil and such hydrocarbons, the Department shall take into account

the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil, gas and condensate, and shall formulate rules setting forth standards or a program for the distribution of the "allowable" for the State, and shall distribute the "allowable" for the State in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or programs shall be applied to such pools and areas so that as far as practicable a uniform program will be followed; provided, however, the Department shall permit the production of a sufficient amount of natural gas from any pool to supply adequately the reasonable market demand for such gas for light and fuel purposes if such production can be obtained without waste, and the condensate "allowable" for such pool shall not be less than the total amount of condensate produced or obtained in connection with the production of the gas "allowable" for light and fuel purposes, and provided further that, if the amount allocated to pool as its share of the "allowable" for the State is in excess of the amount which the pool should produce to prevent waste, then the Department shall fix the "allowable" for the pool so that waste will be prevented.

(b) The Department shall not be required to determine the reasonable market demand applicable to any single pool except in relation to all pools producing oil of similar kind and quality and in relation to the demand applicable to the State, and in relation to the effect of limiting the production of pools in the State. In allocating "allowables" to pools, the Department shall not be bound by nominations or desires of purchasers to purchase oil from particular fields or areas, and the Department shall allocate the "allowable" for the State in such manner as will prevent undue discrimination against any pool or area in favor of another or others which would result from selective buying or nominating by purchasers of oil, as such term "selective buying or nominating" is understood in the oil business.

(c) Whenever the Department limits the total amount of oil or gas which may be produced in any pool in this State to an amount less than that which the pool could produce if no restrictions were imposed (which limitation may be imposed either incidental to, or without, a limitation of the total amount of oil or gas which may be produced in the State), the Department shall prorate or distribute the "allowable" production among the producers in the pool on a reasonable basis, and so that each producer will have the opportunity to produce or receive his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), subject to the reasonable necessities for the prevention of waste.

(d) Whenever the total amount of gas which can be produced from any pool in this State exceeds the amount of gas reasonably required to meet the reasonable market demand therefrom, the Department shall limit the total amount of gas which may be produced from such pool. The Department shall then allocate or distribute the allowable production among the developed areas in the pool on a reasonable basis, so that each producer will have the opportunity to produce his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), whether the restriction for the pool as a whole is accomplished by order or by the automatic operation of the prohibitory provisions of this law. As far as applicable, the

provisions of subsection (a) of this section shall be followed in allocating any "allowable" of gas for the State.

(e) After the effective date of any rule or order of the Department fixing the "allowable" production of oil or gas, or both, or condensate, no person shall produce from any well, lease, or property more than the "allowable" production which is fixed, nor shall such amount be produced in a different manner than that which may be authorized.

(1945, c. 702, s. 14; 1973, c. 1262, s. 86; 1975, c. 19, ss. 37, 38; 1987, c. 827, s. 112.)

**§ 113-395. Notice and payment of fee to Department before drilling or abandoning well; plugging abandoned well.**

Before any well, in search of oil or gas, shall be drilled, the person desiring to drill the same shall notify the Department upon such form as it may prescribe and shall pay a fee of fifty dollars (\$50.00) for each well. The drilling of any well is hereby prohibited until such notice is given and such fee has been paid and permit granted.

Each abandoned well and each dry hole promptly shall be plugged in the manner and within the time required by rules to be prescribed by the Department, and the owner of such well shall give notice, upon such form as the Department may prescribe, of the abandonment of each dry hole and of the owner's intention to abandon, and shall pay a fee of fifteen dollars (\$15.00). No well shall be abandoned until such notice has been given and such fee has been paid.

(1945, c. 702, s. 15; 1973, c. 1262, s. 86; 1987, c. 827, s. 113.)

**§ 113-396. Wells to be kept under control.**

In order to protect further the natural gas fields and oil fields in this State, it is hereby declared to be unlawful for any person to permit negligently any gas or oil well to go wild or to get out of control. The owner of any such well shall, after 24 hours' written notice by the Department given to him or to the person in possession of such well, make reasonable effort to control such well.

In the event of the failure of the owner of such well within 24 hours after service of the notice above provided for, to control the same, if such can be done within the period, or to begin in good faith upon service of such notice, operations to control such well, or upon failure to prosecute diligently such operations, then the Department shall have the right to take charge of the work of controlling such well, and it shall have the right to proceed, through its own agents or by contract with a responsible contractor, to control the well or otherwise to prevent the escape or loss of gas or oil from such well all at the reasonable expense of the owner of the well. In order to secure to the Department the payment of the reasonable cost and expense of controlling or plugging such well, the Department shall retain the possession of the same and shall be entitled to receive and retain the rents, revenues and income therefrom

until the costs and expenses incurred by the Department shall be repaid. When all such costs and expenses have been repaid, the Department shall restore possession of such well to the owner; provided, that in the event the income received by the Department shall not be sufficient to reimburse the Department as provided for in this section, the Department shall have a lien or privilege upon all of the property of the owner of such well, except such as is exempt by law, and the Department shall proceed to enforce such lien or privilege by suit brought in any court of competent jurisdiction, the same as any other civil action, and the judgment so obtained shall be executed in the same manner now provided by law for execution of judgments. Any excess over the amount due the Department which the property seized and sold may bring, after payment of court costs, shall be paid over to the owner of such well.

(1945, c. 702, s. 16; 1973, c. 1262, s. 86.)

**§ 113-397. Hearing in emergency.**

If an emergency situation, as defined by the Department, arises under this Article, the Department may conduct a hearing to determine the appropriate course of action after giving any notice it considers practicable. Chapter 150B of the General Statutes does not apply to a hearing under this section. The rules of evidence apply in a hearing under this section.

(1945, c. 702, s. 17; 1973, c. 1262, s. 86; 1987, c. 827, s. 114.)

**§ 113-398. Procedure and powers in hearings by Department.**

In the exercise and enforcement of its jurisdiction, the said Department is authorized to summon witnesses, administer oaths, make ancillary orders and require the production of records and books for the purpose of examination at any hearing or investigation conducted by it. In connection with the exercise and enforcement of its jurisdiction, the Department shall also have the right and authority to certify as for contempt, to the court of any county having jurisdiction, violations by any person of any of the provisions of this Article or of the rules or orders of the Department, and if it be found by said court that such person has knowingly and willfully violated same, then such person shall be punished as for contempt in the same manner and to the same extent and with like effect as if said contempt had been of an order, judgment or decree of the court to which said certification is made.

(1945, c. 702, s. 18; 1973, c. 1262, s. 86; 1987, c. 827, s. 115.)

**§ 113-399. Suits by Department.**

The Department may bring an action in any court of competent jurisdiction in the State to enforce, by injunction or another remedy, an order issued or rule adopted by the Department under this Article. The court may enter any judgment or order necessary to enforce an order issued or rule adopted by the Department under this Article.

(1945, c. 702, s. 19; 1973, c. 1262, s. 86; 1987, c. 827, s. 116.)

**§ 113-400. Assessing costs of hearings.**

The said Department is hereby authorized and directed to tax and assess against the parties involved in any hearing the costs incurred therein.

(1945, c. 702, s. 20; 1973, c. 1262, s. 86.)

**§ 113-401. Party to hearings; review.**

The term "party" as used in this Article shall include any person, firm, corporation or association. In proceedings for review of an order or decision of said Department, the Department shall have all rights and privileges granted by this Article to any other party to such proceedings.

(1945, c. 702, s. 21; 1973, c. 1262, s. 86.)

**§ 113-402. Administrative review.**

A party who is dissatisfied with a decision or order of the Department under this Article may obtain administrative review of the decision by filing a petition for a contested case hearing under G.S. 150B-23 within 10 days after the decision or order is made.

(1945, c. 702, s. 22; 1973, c. 1262, s. 86; 1987, c. 827, s. 117.)

**§ 113-403. Judicial review.**

Article 4 of Chapter 150B of the General Statutes governs judicial review of a decision or order made under this Article.

(1945, c. 702, s. 23; 1973, c. 1262, s. 86; 1987, c. 827, s. 118.)

**§ 113-406. Effect of pendency of judicial review; stay of proceedings.**

The filing or pendency of the application for judicial review provided for in this Article shall not in itself stay or suspend the operation of any order or decision of the Department, but, during the pendency of such proceeding the court, in its discretion, may stay or suspend, in whole or in part, the operation of the order or decision of the Department. No order so staying or suspending an order or decision of the Department shall be made by any court of this State otherwise than on five days' notice and, after a hearing, and if a stay or suspension is allowed the order granting the same shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage.

(1945, c. 702, s. 26; 1973, c. 1262, s. 86; 1987, c. 827, s. 120.)

**§ 113-407. Stay bond.**

In case the order or decision of the Department is stayed or suspended, the order or judgment of the court shall not become effective until a bond shall have been executed and filed with and approved by the court, payable to the Department, sufficient in amount and security to secure the prompt payment, by the party petitioning for the stay, of all damages caused by the delay in the enforcement of the order or decision of the Department.

(1945, c. 702, s. 27; 1973, c. 1262, s. 86.)

**§ 113-408. Enjoining violation of laws and rules; service of process; application for drilling well to include residence address of applicant.**

Whenever it shall appear that any person is violating, or threatening to violate, any statute of this State with respect to the conservation of oil or gas, or both, or any provision of this law, or any rule or order made thereunder by any act done in the operation of any well producing oil or gas, or by omitting any act required to be done thereunder, the Department, through the Attorney General, may bring suit against such person in the superior court in the county in which the well in question is located, to restrain such person or persons from continuing such violation or from carrying out the threat of violation. In such suit the Department may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions, as the facts may warrant, including, when appropriate, an injunction restraining any person from moving or disposing of illegal oil, illegal gas or illegal product, and any or all such commodities may be ordered to be impounded or placed under the control of an agent appointed by the court if, in the judgment of the court, such action is advisable. If any such defendant cannot be personally served with summons in that county, personal jurisdiction of that defendant in such suit may be obtained by service made on any employee or agent of that defendant working on or about the oil or gas well involved in such suit, and by the Department mailing a copy of the complaint in the action to the defendant at the address of the defendant then recorded with the director of production and conservation. Each application for the drilling of a well in search of oil or gas in this State shall include the address of the residence of the applicant or each applicant, which address shall be the address of each person involved in accordance with the records of the director of production and conservation, until such address is changed on the records of the Department after written request.

(1945, c. 702, s. 28; 1973, c. 1262, s. 86; 1987, c. 827, s. 121.)

**§ 113-409. Punishment for making false entries, etc.**

Any person who, for the purpose of evading this law, or of evading any rule or order made thereunder, shall intentionally make or cause to be made any false entry or statement of fact in any report required to be made by this law or by any rule or order made hereunder; or who, for such purpose, shall make or cause to be made any false entry in any account,

record, or memorandum kept by any person in connection with the provisions of this law or of any rule or order made thereunder; or who, for such purpose, shall omit to make, or cause to be omitted, full, true and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the interest or activities in the petroleum industry of such person as may be required by the Department under authority given in this law or by any rule or order made hereunder; or who, for such purpose shall remove out of the jurisdiction of the State, or who shall mutilate, alter, or by any other means falsify, any book, record, or other paper, pertaining to the transactions regulated by this law, or by any rule or order made hereunder, shall be deemed guilty of a Class 2 misdemeanor.

(1945, c. 702, s. 29; 1973, c. 1262, s. 86; 1987, c. 827, s. 122; 1993, c. 539, s. 871; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 113-410. Penalties for other violations.**

Any person who knowingly and willfully violates any provision of this law, or any rule or order of the Department made hereunder, shall, in the event a penalty for such violation is not otherwise provided for herein, be subject to a penalty of not to exceed one thousand dollars (\$1,000) a day for each and every day of such violation, and for each and every act of violation, such penalty to be recovered in a suit in the superior court of the county where the defendant resides, or in the county of the residence of any defendant if there be more than one defendant, or in the superior court of the county where the violation took place. The place of suit shall be selected by the Department, and such suit, by direction of the Department, shall be instituted and conducted in the name of the Department by the Attorney General. The payment of any penalty as provided for herein shall not have the effect of changing illegal oil into legal oil, illegal gas into legal gas, or illegal product into legal product, nor shall such payment have the effect of authorizing the sale or purchase or acquisition, or the transportation, refining, processing, or handling in any other way, of such illegal oil, illegal gas or illegal product, but, to the contrary, penalty shall be imposed for each prohibited transaction relating to such illegal oil, illegal gas or illegal product. Any person knowingly and willfully aiding or abetting any other person in the violation of any statute of this State relating to the conservation of oil or gas, or the violation of any provisions of this law, or any rule or order made thereunder, shall be subject to the same penalties as prescribed herein for the violation by such other person.

The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(1945, c. 702, s. 30; 1973, c. 1262, s. 86; 1987, c. 827, s. 122; 1998-215, s. 50.)

**§ 113-411. Dealing in or handling of illegal oil, gas or product prohibited.**

(a) The sale, purchase or acquisition, or the transportation, refining, processing or handling in any other way of illegal oil, illegal gas or illegal product is hereby prohibited. All persons purchasing any petroleum product must first be licensed to do so by the Department.

(b) Unless and until the Department provides for certificates of clearance or tenders, or some other method, so that any person may have an opportunity to determine whether any contemplated transaction of sale, purchase or acquisition, or transportation, refining, processing or handling in any other way, involves illegal oil, illegal gas or illegal product, no penalty shall be imposed for the sale, purchase or acquisition, or the transportation, refining, processing or handling in any other way of illegal oil, illegal gas or illegal product, except under circumstances hereinafter stated. Penalties shall be imposed for the commission of each transaction prohibited in this section when the person committing the same knows that illegal oil, illegal gas or illegal product is involved in such transaction, or when such person could have known or determined such fact by the exercise of reasonable diligence or from facts within his knowledge. However, regardless of lack of actual notice or knowledge, penalties as provided in this law shall apply to any sale, purchase or acquisition, and to the transportation, refining, processing or handling in any other way, of illegal oil, illegal gas or illegal product, where administrative provision is made for identifying the character of the commodity as to its legality. It shall likewise be a violation for which penalties shall be imposed for any person to sell, purchase or acquire, or to transport, refine, process or handle in any other way any oil, gas or any product without complying with any rule or order of the Department relating thereto.

(1945, c. 702, s. 31; 1973, c. 1262, s. 86; 1987, c. 827, s. 122.)

**§ 113-412. Seizure and sale of contraband oil, gas and product.**

Apart from, and in addition to, any other remedy or procedure which may be available to the Department, or any penalty which may be sought against or imposed upon any person with respect to violations relating to illegal oil, illegal gas, or illegal product, all illegal oil, illegal gas and illegal product shall, except under such circumstances as are stated herein, be contraband and shall be seized and sold. Such sale shall not take place unless the court shall find, in the proceeding provided for in this paragraph, that the commodity involved is contraband. Whenever the Department believes that illegal oil, illegal gas or illegal product is subject to seizure and sale, as provided herein, it shall, through the Attorney General, have issued a warrant of attachment and bring a civil action in rem for that purpose in the superior court of the county where the commodity is found, or the action may be maintained in connection with any suit or cross bill for injunction or for penalty relating to any prohibited transaction involving such illegal oil, illegal gas or illegal product. Any interested person who may show himself to be adversely affected by any such seizure and sale shall have the right to intervene in such suit to protect his rights. The action referred to above shall be strictly in rem and shall proceed in the name of the State as plaintiff against the illegal oil, illegal gas or illegal product mentioned in the

complaint, as defendant, and no bond or bonds shall be required of the plaintiff in connection therewith. Upon the filing of the complaint, the clerk of the court shall issue a summons directed to the sheriff of the county, or to such other officer or person as the court may authorize to serve process, requiring him to summon any and all persons (without undertaking to name them) who may be interested in the illegal oil, illegal gas, or illegal product mentioned in the complaint to appear and answer within 30 days after the issuance and service of such summons. The summons shall contain the style and number of the suit and a very brief statement of the nature of the cause of action. It shall be served by posting one copy thereof at the courthouse door of the county where the commodity involved in the suit is alleged to be located and by posting another copy thereof near the place where the commodity is alleged to be located. Copy of such summons shall be posted at least five days before the return day stated therein, and the posting of such copy shall constitute constructive possession of such commodity by the State. A copy of the summons shall also be published once each week for four weeks in some newspaper published in the county where the suit is pending and having a bona fide circulation therein. No judgment shall be pronounced by any court condemning such commodity as contraband until after the lapse of five days from the last publication of said summons. Proof of service of said summons, and the manner thereof, shall be as provided by general law. Where it appears by a verified pleading on the part of the plaintiff, or by affidavit, or affidavits, or by oral testimony, that grounds for the seizure and sale exist, the clerk, in addition to the summons or warning order, shall issue a warrant of attachment, which shall be signed by the clerk and bear the seal of the court. Such warrant of attachment shall specifically describe the illegal oil, illegal gas or illegal product, so that the same may be identified with reasonable certainty. It shall direct the sheriff to whom it is addressed to take into his custody, actual or constructive, the illegal oil, illegal gas or illegal product, described therein, and to hold the same subject to the orders of the court. Said warrant of attachment shall be executed as a writ of attachment is executed. No bond shall be required before the issuance of such warrant of attachment, and the sheriff shall be responsible upon his official bond for the proper execution thereof. In a proper case, the court may direct the sheriff to deliver the custody of any illegal oil, illegal gas or illegal product seized by him under a warrant of attachment, to a commissioner to be appointed by the court, which commissioner shall act as the agent of the court and shall give bond with such approved surety as the court may direct, conditioned that he will faithfully conserve such illegal oil, illegal gas or illegal product, as may come into his custody and possession in accordance with the orders of the court; provided, that the court may in its discretion appoint any member of the Department or any agent of the Department as such commissioner of the court. Sales of illegal oil, illegal gas or illegal product seized under the authority of this law, and notices of such sales, shall be in accordance with the laws of this State relating to the sale and disposition of attached property; provided, however, that where the property is in custody of a commissioner of the court, the sale shall be held by said commissioner and not by the sheriff. For his services hereunder, such commissioner shall receive a reasonable fee to be paid out of the proceeds of the sale or sales to be fixed by the court ordering such sale.

The court may order that the commodity be sold in specified lots or portions, and at specified intervals, instead of being sold at one time. Title to the amount sold shall pass as of the date of the law which is found by the court to make the commodity contraband. The judgment shall provide for the clear proceeds of the sales to be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The amount sold shall be treated as legal oil, legal gas or legal product, as the case may be, in the hands of the purchaser, but the purchaser and the commodity shall be subject to all applicable laws, rules, and orders with respect to further sale or purchase or acquisition, and with respect to the transportation, refining, processing, or handling in any other way, of the commodity purchased. Nothing in this section shall deny or abridge any cause of action a royalty owner, or a lienholder, or any other claimant, may have, because of the forfeiture of the illegal oil, illegal gas, or illegal product, against the person whose act resulted in such forfeiture. No illegal oil, illegal gas or illegal product shall be sold for less than the average market value at the time of sale of similar products of like grade and character.

(1945, c. 702, s. 32; 1973, c. 1262, s. 86; 1987, c. 827, s. 123; 1998-215, s. 51.)

**§ 113-414. Filing list of renewed leases in office of register of deeds.**

On December 31 of each year, or within 10 days thereafter, every person, firm or corporation holding petroleum leases shall file in the office of the register of deeds of the county within which the land covered by such leases is located, a list showing the leases which have been renewed for the ensuing year.

(1945, c. 702, s. 34.)

**§ 113-415. Conflicting laws.**

No provision of this Article shall be construed to repeal, amend, abridge or otherwise affect the authority and responsibility vested in the Environmental Management Commission by Article 7 of Chapter 87, pertaining to the location, construction, repair, operation and abandonment of wells, or the authority or responsibility vested in the Department and the Commission for Public Health by Article 10 of Chapter 130A of the General Statutes pertaining to public water-supply requirements.

(1971, c. 813, s. 7; 1973, c. 476, s. 128; c. 1262, s. 23; 1989, c. 727, s. 121; 2007-182, s. 2.)