

RESERVOIR PROTECTION AND THE PREVENTION OF WASTE

A variety of states have enacted statutory provisions seeking to regulate the production of oil and gas in a manner that prevents waste. The Interstate Oil and Gas Compact Commission defines "waste" in its 2004 Model Oil and Gas Conservation Act as:

- "(A) the inefficient, excessive, or improper use of reservoir energy or unnecessary dissipation of reservoir energy;
- (B) the inefficient storing of oil or gas;
- (C) the locating, drilling, equipping, operating, or producing of an oil or gas well in a manner that causes or tends to cause a reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and proper operations, the drilling of unnecessary wells, or the loss or destruction of oil or gas either at the surface or below the surface;
- (D) the production of oil or gas in excess of pipeline, marketing, or storage capacities, in excess of reasonable market demand, in excess of the amount reasonably required for properly drilling, completing, testing, or operating a well or other facilities for recovering, processing, or transporting oil, gas, or by-products, or in excess of the amount otherwise utilized on the acreage from which the oil or gas is produced; or
- (E) other dissipation, production, or use of oil or gas underground or above ground, or in storage, that is careless, needless, or without valuable result."

Texas and Oklahoma are two notable states that have enacted extensive reservoir protection measures to prevent waste.

In Texas the entity tasked with regulating the production of oil and natural gas is the Railroad Commission of Texas' Oil and Gas Division. Established in 1891, the commission serves to protect the correlative rights of various interest owners and prevent waste of the state's natural resources. Pursuant to Section 85.046 of the Texas Natural Resources Code Annotated, the term "waste" includes "physical waste or loss incident to or resulting from drilling, equipping, locating, spacing, or operating a well or wells in a manner that reduces or tends to reduce the total ultimate recovery of oil or gas from any pool" and "waste or loss incident to or resulting from the unnecessary, inefficient, excessive, or improper use of the reservoir energy." As a means to prevent waste and protect interest owners' correlative rights, the commission performs a variety of tasks including assigning the allowable production on oil and gas wells, receiving operators' production reports on oil leases and gas wells, and performing audits to ensure production does not exceed allowable limits.

In Oklahoma the Oklahoma Corporate Commission proposes and implements rules and regulations pertaining to oil and gas and administers and enforces the rules and regulations. Established in 1907, the commission was initially tasked with regulating only public service corporations and businesses essential to public welfare. The commission's duties were expanded in 1914 under Title 52 of the Oklahoma Statutes Annotated to include the regulation of oil and gas. The commission is charged with reducing "waste" which, as it applies to the production of oil, is defined under Section 86.2 to include "the use of reservoir energy for oil producing purposes by means or methods that unreasonably interfere with obtaining from the common source of supply the largest ultimate recovery or oil." As the term applies to the production of gas, "waste" is defined under Section 86.3 to include "the production of gas in such quantities or in such manner as unreasonably to reduce reservoir pressure or unreasonably to diminish the quantity of oil or gas that might be recovered from a common source of supply." The commission has judicial, legislative, and administrative authority over all regulatory matters falling within its jurisdiction and commission orders may be appealed only to the Oklahoma Supreme Court.