

EXAM SPECIFICATIONS FOR OIL, GAS AND MINERAL LAW

The purpose of the certification examination is to require applicant to demonstrate substantial knowledge of significant legal concepts and corresponding skills in oil, gas and mineral law.

DEFINITION. Oil, gas and mineral law comprises law applicable to oil, gas and other minerals and interests in oil, gas and other minerals and to the acquisition, ownership, leasing, development, transfer, disposition and financing of these substances. The practice of oil, gas and mineral law requires, without limitation, knowledge of land titles and surface use; conveyances, contracts and other documents typically used in oil, gas and other mineral transactions; statutes and regulations affecting oil, gas and minerals; litigation involving oil, gas and mineral rights; and the taxation of oil, gas and other minerals and of transactions concerning them.

KNOWLEDGE. Applicant must have knowledge of the following: **(Not all of the following exam topics will be covered on the exam. Applicant will be tested on all laws currently in effect at the time of the exam.)**

- I. Ownership of Oil, Gas and Minerals
 - A. Nature of the ownership
 - B. Surface use by the mineral owner and the surface owner
 - C. Trespass, surface and subsurface
 - D. Adverse possession
 - E. Rights of concurrent owners
 - F. Rights of owners of successive interests
 - G. Rights to lease
 - H. State and public lands
 - I. Relinquishment Act
- II. Conveyancing
 - A. Formalities
 - B. Meaning of "minerals"
 - C. Grants and reservations
 - D. Term interests
 - E. Construction of deeds
 - F. Probate and intestate succession
- III. Oil, Gas and Mineral Lease
 - A. Habendum clause and the delay rental clause
 - B. Habendum clause and operations, production and cessation of production
 - C. Royalty clauses
 - 1. Allocation of expenses
 - 2. Computation of royalty

- 3. Non-payment of royalty
- 4. Division orders
- 5. Transfer orders
- 6. Shut-in royalty
- D. Other clauses
 - 1. Mother Hubbard Clause
 - 2. Warranty Clause
 - 3. Pugh Clause
 - 4. Force Majeure Clause
 - 5. Clauses added to printed form
- E. Implied covenants
- F. Community Lease
- IV. Transfer Subsequent to a Lease
 - A. Transfer by lessor
 - 1. "Subject to" clause; "two-grants" theory
 - 2. Assignment clause; apportionment of royalties; entirety clause
 - B. Transfer by lessee
 - 1. Relationship of transferor and transferee
 - 2. Relationship of lessor and transferee and with transferor
 - 3. Reserved interests
- V. Pooling and Unitization
 - A. Creation of pooled units; unit agreements; voluntary and compulsory
 - B. Non-joining owners; joinder by owners of non-operating interests
 - C. Effect of pooling and unitization upon lease terms and upon term interests, and non-participating royalty interests
- VI. Industry Contracts
 - A. Farmouts
 - B. Operating agreements
 - C. Division and transfer orders
 - D. Joint venture agreements
 - E. Right of way
 - F. Seismic easements and options
 - G. Surface damages
 - H. Processing agreements
 - I. Drilling contracts
 - J. Indemnities
 - K. Gas purchase contracts
- VII. Recent Developments
- VIII. Oil and Gas Industry Terminology
- IX. State and Federal Regulations of Oil, Gas and Minerals
 - A. Railroad Commission regulation of oil, gas and minerals
 - B. Surface Mining and Reclamation Act

- C. Mineral Interest Pooling Act
 - D. Relinquishment Act
 - E. Leasing state lands
- X. Oil, Gas and Mineral Financing and Liens (including mechanic's and materialmen's liens under the Uniform Commercial Code)
- XI. The Texas Disciplinary Rules of Professional Conduct
The ethics questions regarding this topic will involve an array of hypothetical fact situations which will cover several different aspects of ethical issues that arise in the practice of law. The questions will not be limited to the practice of any one specialty area, and consequently, an applicant is advised to be familiar with all provisions of the TDRPC.

SKILLS. Applicant must demonstrate the:

1. Ability to communicate effectively to a variety of audiences (e.g., communications addressed to clients, counsel, courts, administrative agencies, etc.)
2. Ability to develop and evaluate strategies for solving a problem or accomplishing an objective
3. Ability to analyze and apply legal rules and principles
4. Ability to analyze, sort and use facts, and to plan and direct factual investigations
5. Ability to organize and manage a legal task efficiently within time constraints
6. Ability to represent a client consistent with applicable ethical standards
7. Ability to invoke and utilize the procedures normally required in the area of specialty including pleadings and filings

Specifically, applicant must be able to:

8. Advise clients on the legal aspects of ownership and transfer of oil, gas and mineral rights
9. Draft documents necessary to accomplish client objective directives
10. Advise clients of the rights and obligations of all parties under an oil, gas and mineral lease
11. Advise clients on the legal aspects of transfers of leases
12. Advise clients on issues related to pooling and unitization, various contracts related to oil, gas and mineral leases, and the Texas Railroad Commission regulation of producers and landowners