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April 7, 1999

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HAND DELIVERED

Ms. Jamie Bailey
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Santa Fe, New Mexico 87501

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New Mexico Petroleum Recovery Research Center
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FEDERAL EXPRESS

Re: *Proposed Amendments to Division Notice Rules*

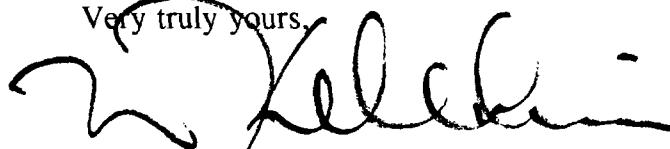
Dear Members of the Commission:

For more than a year, the Regulatory Practices Committee of the New Mexico Oil & Gas Association and the New Mexico Oil Conservation Division staff have been discussing possible revisions to the Division's rules concerning the notice requirements for all types of administrative cases and Examiner cases.

On January 12, 1999, the Commission commenced a hearing in Case 12119 to discuss possible amendments to the notice requirements found throughout the Division's General Rule Book. Within the context of Case 12119, the Commission is also considering changes to Division Rule 104. The case was continued to the Commission docket scheduled for April 22, 1999. It is our recommendation that the Commission create a separate case for the notice rules and a separate case for considering changes to Rule 104.

On behalf of the New Mexico Oil & Gas Association, please find enclosed our proposed revisions to the Division notice rules which we would like the Commission to consider at this April 22, 1999 hearing.

Very truly yours,



W. Thomas Kellahin

cc: *New Mexico Oil & Gas Association*

**NEW MEXICO OIL & GAS ASSOCIATION
REGULATORY PRACTICES COMMITTEE
PROPOSED CHANGES TO DIVISION'S NOTICE RULES
April 7, 1999**

PART A - GENERAL PROVISIONS AND DEFINITIONS

RULE 11 SCOPE OF RULES AND REGULATIONS

11.A. The following ~~General Rules~~ rules of statewide application have been adopted by the ~~Oil Conservation Division of New Mexico Energy, Minerals and Natural Resources Department~~ Commission to conserve the natural resources of the State of New Mexico, to prevent waste, to protect correlative rights of all owners of crude oil and natural gas, and to protect fresh waters public health and the environment and to otherwise implement the Oil and Gas Act, NMSA 1978, §§ 70-2-1 through 70-2-38. ~~Special rules and regulations and orders have been and will be issued when required and shall prevail as against General Rules, Regulations and Orders if in conflict therewith. However, whenever these General Rules do not conflict with special rules heretofore or hereafter adopted, these General Rules shall apply.~~

11.B. ~~The Division may grant exceptions to these rules after notice and hearing, when the granting of such exceptions will not result in waste but will protect correlative rights or prevent undue hardship. Orders, including special pool orders (formerly referred to as "Special Rules and Regulations"), of the Division or the Commission are issued when necessary and shall prevail against rules if in conflict with them.~~

11.C ~~The Division may issue orders which grant exceptions to these rules in accordance with the rules set forth herein.~~

PART C - DRILLING

RULE 104.D ACREAGE ASSIGNMENT

(2) Non-Standard Spacing Units.

(b) The Division Director may grant administrative approval to ~~of a~~ non-standard spacing units ~~without notice and hearing~~ when an application has been filed for a non-standard spacing unit and the unorthodox size or shape of the dedicated tract is necessitated by a variation in the legal subdivision of the U.S. Public Land Surveys, or the following facts exist and the following provisions are complied with:

(c) Applications for administrative approval of non-standard spacing units, ~~pursuant to Section D(2) above,~~ shall be accompanied by a plat showing the ~~subject~~ spacing unit and an applicable standard spacing unit for the applicable pool or formation, its proposed well dedications, all adjoining spacing units ~~and/or leases (whichever is applicable)~~ and a list of affected parties. Also to be included is a statement that discusses the necessity for the formation of the ~~subject~~ non-standard spacing unit and the reasons why a standard sized spacing unit is not feasible.

(i) Affected parties ~~in this instance shall be defined as are:~~

(i) those ~~parties~~ ~~interest~~ owners in the applicable half quarter section (80-acres spacing), quarter section (160-acre spacing), half section (320-acre spacing) or section (640-acre spacing) in which the non-standard spacing unit is situated and which acreage is not included in ~~said the~~ non-standard spacing unit; ~~and~~

(ii) the Division designated operator of any ~~adjoining or diagonal~~ spacing unit producing from the same pool(s) as the proposed non-standard spacing unit and which adjoins the standard spacing unit containing the proposed non-standard spacing unit

~~(iii) in the absence of an operator, all lessees of record of any diagonal or adjoining lease owning interests in the same pool(s) as the proposed non-standard spacing unit; and~~

~~(iv) in the absence of an operator or mineral owner known to the applicant or of record then to all owners of record of unleased mineral interests~~

(d) The applicant shall submit a statement attesting that applicant, on or before the same date the application was submitted to the Division, ~~was sent notification to the affected parties by submitting a copy of the application, including a copy of the plat described in Subpart (e) above described in paragraph (c) by certified mail (return receipt) or registered mail in accordance with Rule 1207(6)(a) advising them that if they have an~~ objections it must be filed in writing within ~~twenty~~ 20 days from the date notice was sent. The Division Director may approve the non-standard spacing unit upon receipt of waivers from all ~~said affected parties or if no said affected party~~ has entered an objection to the non-standard spacing unit within the 20 day objection period. ~~days after the Director has received the application~~

(e) The Division Director may set any application for administrative approval for a non-standard spacing unit for public hearing. In the event of a timely filed objection, the Division shall notify the applicant and the objecting party in writing that the case has been set for hearing on the next available Examiner's docket. No further notice shall be required.

RULE 104.F UNORTHODOX LOCATIONS

(2) The Division Director shall have authority to grant an exception to the well ~~footage~~ location requirements of Section 104.B and 104.C above or to the well ~~footage~~ location requirements of special pool ~~rules orders without notice and hearing~~ when the necessity for such unorthodox ~~footage~~ location is based upon geologic conditions, archaeological conditions, topographical conditions, or the recompletion of a well previously drilled to a deeper horizon provided that ~~said the~~ well was drilled at an orthodox or approved unorthodox location for such original horizon.

(3) Application for administrative approval of unorthodox locations pursuant to Rule 104.F(2), above, shall be accompanied by a plat showing the subject unit, its proposed unorthodox well location, the ~~diagonal and~~ adjoining spacing units ~~and/or leases (whichever is applicable)~~ and wells, and a list of affected parties. If the proposed unorthodox location is based upon topography or archaeology, the plat shall also show and describe the existent topographical or archaeological conditions. If the proposed unorthodox location is based upon geology, the application shall include appropriate geologic exhibits and a discussion of the geologic conditions which result in the necessity for the unorthodox location.

~~(a) (4) Affected parties are the following described parties in adjoining¹ and diagonal shall be defined as those immediately adjacent existing or prospective spacing units in the same pool(s) as the proposed unorthodox well location and towards which the unorthodox well location encroaches:~~

~~(b) Affected parties shall be defined as those parties who own interests in leases or operate wells on adjoining or diagonal spacing units and include:~~

~~(i) the designated operator of any adjoining or diagonal spacing unit producing from the same pool(s) as the proposed well;~~

~~(ii) in the absence of an operator, all lessees of record of any diagonal or adjoining lease owning interests in the same pool(s) as the proposed well; and~~

¹ "adjoining" means those spacing units adjoining on a side or corner

~~(iii) in the absence of an operator or lessee, all owners of record of unleased mineral interests in the same pool(s) as the proposed well.~~

(a) for existing adjoining spacing units:²

(i) the Division designated operator; and

(ii) in the event the applicant is also the operator of the existing adjoining spacing unit which contains different working interest owners or different percentages of ownership, then to all working interest owners in those spacing units.³

(b) for prospective adjoining spacing units:

(i) all lessees of record and any unleased mineral owners of conveyances the existence of which is known to applicant or is of public record; and

(ii) in the event the prospective spacing unit will be rectangular shaped, then notice shall be sent to those affected owners within that one-half of the adjoining prospective spacing unit which consists of a standard sized government quarter section or quarter-quarter section, as applicable, and which is closest to the unorthodox well location

² Note: an "existing spacing unit" contains a producing well while a "prospective spacing unit" is a hypothetical unit which does not yet have a producing well. These two terms are to be added to the definition section of 19 NMAC 15.A.7

³ Note: Regulatory Practice Committee of NMOGA is divided on this requirement. A number of committee members would delete paragraph (a)(ii)

(4) (5) The applicant shall submit a statement attesting that applicant, on or before the same date the application was submitted to the Division, was sent notification to the affected parties by submitting a copy of the application, including a copy of the plat described in Rule 104.F(3) above by certified mail (return receipt) registered mail...in accordance with Rule 1207.A.(5) advising them that if they have an objections it must be filed in writing within twenty 20 days from the date notice was sent. The Division Director may approve the unorthodox well location upon receipt of waivers from all said affected parties or if no said affected party has entered an objection to the unorthodox well location within 20 day objection period days after the Director has received the application.

(5) The Division Director may set any application for administrative approval of an unorthodox location for public hearing and may require that a directional survey be run in the unorthodox well to establish the actual location of the producing interval.

(6) In the event of a timely filed objection, the Division shall notify the applicant and the objecting party in writing that the case has been set for hearing on the next available Examiner's docket. No further notice shall be required.

RULE 104.0

The Division shall wait at least ten 20 days before approving any such pooling, and shall approve such pooling only in the absence of objection from any party entitled to notice. In the event that a party entitled to notice objects to the pooling application, the Division shall consider the matter only after proper notice and hearing.

RULE 104.P

The Division may waive the ten 20 day waiting period requirement if the applicant furnishes the Division with the written consent to the pooling by all offset operators in adjoining existing spacing units or all lessees of record and any unleased mineral owners of conveyances the existence of which is known to applicant or is of public record in adjoining prospective spacing units.

RULE 112-B BRADENHEAD GAS WELLS

(note: rule form for this section is not consistent with other rules)

112-B.C The Division Director shall have authority to grant an exception to the requirements of paragraph A above ~~without notice and hearing~~ where application has been filed in due form, and when the lowermost producing zone involved in the completion is an oil or gas producing zone within the defined limits of an oil or gas pool and the producing zone to be produced through the bradenhead connection is a gas producing zone within the defined limits of a gas pool.

112-B.D Applicants shall furnish all operators who offset the lease...and applicant shall include within his application a written stipulation that all offset operators have been properly notified. The Division Director shall wait at least ~~10 days~~ **20 days** before approving the production of gas from the bradenhead gas well and shall approve such production only in the absence of objection from any offset operator. In the event an operator objects to the completion, the Division Director shall consider the matter only after ~~proper~~ notice and hearing.

RULE 303 SEGREGATION OF PRODUCTION FROM POOLS

RULE 303.B SURFACE COMMINGLING:

(1) The Division Director shall have the authority to grant an exception to Rule 303-A to permit the commingling in common facilities of the commonly owned production from two or more common sources of supply, ~~without notice and hearing~~, provided that the liquid hydrocarbon production from each common sources of supply is to be accurately measured or determined prior to such commingling in accordance with the applicable provisions of the Division's "Manual for the Installation and Operation of Commingling Facilities, then current.

RULE 303.D (10)

(b) A statement that in the case where ownership is not common among the zones to be commingled, the applicant has given written notification by ~~sending a copy of the application~~ certified mail (return receipt) on a specified date of the application to all working interest, royalty and overriding royalty interest owners ~~owners (including working, royalty and overriding royalty interests)~~ for the spacing unit for each of the commingled zones within this spacing unit;

~~(c) A statement that all offset operators have been given written notice of the proposed downhole commingling;~~

~~(16) (f) a notification list of all offset operators;~~

RULE 303.F The ~~process and timing for approval of downhole commingling application as to approval authority, common or non-common interests, Form C-107-A filing, and administrative or hearing formats~~ shall be determined as follows:

(1) The Division Director may approve the proposed downhole commingling in the absence of a valid ~~an~~ objection from any offset operator or any interest owner in those instances where ownership is not common in the zones to be commingled within 20 days after the receipt of the application if, in his opinion, waste will not result thereby, and correlative rights will not be violated; ~~filed within 20 days from the date the application was sent to the objecting party.~~

(2) The Division Director, may, at his discretion, set any ~~administratively filed form C-107-A~~ administrative application for hearing.

RULE 309-B ADMINISTRATIVE APPROVAL, LEASE COMMINGLING:

Rule 309-B.A The Division Director shall have the authority to grant an exception to Rule 309-A to permit the commingling of production from two or more separate leases in a common tank battery ~~without notice and hearing~~ provided application has been filed in ~~TRIPLICATE~~ triplicate with the Division and is accompanied by plats of the leases showing thereon the wells on the leases and the formations in which they are completed, and schematic diagrams of the commingling facility, showing it to be of an acceptable design in accordance with the Division's "Manual for the Installation and Operation of Commingling Facilities", then current, and provided that:

RULE 509 OIL DISCOVERY ALLOWABLE AND POOL CREATION

(note: the current Rule 509 provides that the Director may approve such an application in the absence of an objection but fails to provide an obligation on the applicant to send notice. The following is suggested to cure this error)

509.C(6) The applicant shall send a copy of Division Form C-109 by certified mail (return receipt) to Division designated operators of all wells within one (1) mile of the discovery well.

509.D. If ~~in the opinion of the Division staff~~, good cause exists to bring the pool on for hearing as a discovery, and no objection has been received by the Division from any other operator within 20 days from the date notice was sent to the objecting operator the pool will be placed on the first available hearing docket for inclusion by the staff in its regular pool nomenclature cases. If the staff is not in agreement with the applicant's contention that a new pool has been discovered, or if, ~~if the staff is not in agreement with the applicant's contention that a new pool has been discovered, or if, within ten days after receiving a copy of the application another operator files with the Division an objection to the creation of a new pool, and the assignment of a discovery allowable, the applicant will be so notified and he will be expected to present the evidence supporting his case. Or, if the applicant so desires, the application may be set for separate hearing on another nomenclature docket for presentation of evidence by the applicant.~~ In the event of a timely filed objection, the Division shall notify the applicant and the objecting party in writing that the case has been set for hearing on the next available Examiner's docket. No further notice shall be required.

RULE 701.C ADMINISTRATIVE APPROVAL (SALT WATER DISPOSAL WELLS)

(1) If the application is for administrative approval rather than for a hearing, it must also be accompanied by a copy of a legal publication published by the applicant in a newspaper of general circulation in the county in which the proposed injection well is located. (The details required in such legal notice are listed on Side 2 of Form C-108)

(2) No application for administrative approval may be approved until ~~15~~ 20 days following receipt by the Division of Form C-108 complete with all attachments including evidence of mailing are required under paragraph B(2) above and proof of publication as required by paragraph C(1) above.

(3) If no objection is received within ~~said 15-day~~ the 20-day objection period, and a hearing is not otherwise required, the applicaitno may be approved.

RULE 701.D HEARINGS

(1) If a written objection to any application for administrative approval of an injection well is filed with the Division within 20-days from the date the application was sent to the objecting party ~~within 15 days after receipt of a complete application~~, or if a hearing is required by these rules or deemed advisable by the Division Director, the application shall be set for hearing and notice thereof given by the Division.

PART N - PROCEDURE

1201 ~~NECESSITY FOR HEARING RULEMAKING PROCEEDINGS~~

A. Except as otherwise provided in ~~some general rule~~ herein, before any rule, ~~regulations or order~~ including revocation, ~~changes, renewal or extension or amendment~~ thereof, shall be made by the Division or Commission, a public hearing before the Commission or a ~~legally~~ duly appointed Division Examiner shall be held at such time and place as may be prescribed by the ~~Division Commission~~ in accordance with NMSA 1987 §10-15-1

B. When the Commission, the Division, an operator or any interest owner applies to adopt or amend any of the General Rules of the New Mexico Oil Conservation Commission, such application shall constitute a request for rulemaking for which the following notice requirements shall apply:

(1) The Division shall cause notice of the proposed rule change to be published in a newspaper of general circulation in the counties in New Mexico affected by this rule with the publication date not less than twenty (20) days prior to the date set for the hearing.

(2) The Division shall publish notice of the proposed rule change on the Commission docket and shall send the docket to all who have requested such notice as shown on the Division docket mailing list not less than twenty (20) days prior to the Commission hearing

(3) Before adopting any change to a rule, the Commission shall publish its proposed order on its Commission docket which will be sent to all who have requested such notice as shown on the Division docket mailing list not less than twenty (20) days before the Commission takes final action.

1202 EMERGENCY ORDERS AND RULES

Notwithstanding any other provision of these rules, in case the event an emergency is found to exist by the Division or Commission, which, in its judgement, requires the making adoption of a rule regulation or order without a hearing having first been had or concluded, such emergency rule, regulation or order when made by the Division or Commission shall have the same validity as if a hearing with respect to the same had been held before the Division or Commission after due notice. Such emergency rule regulation or order shall remain in force no longer than 15 days from its effective date. and in any event, it shall expire when the rule, regulations or order made after due notice and hearing with respect to the subject mater of such emergency rule, regulation or order becomes effective.

1203 METHOD OF INITIATING A HEARING

~~1203.A~~ The Division ~~on its own motion~~, the Attorney General on behalf of the State, and any operator or producer, or any other person having a property interest may institute proceedings apply for a hearing. If the hearing is sought by the Division it shall be on motion of the Division and if by any other person it shall be by application. The application shall be in TRIPLICATE AND SHALL state:

- (1) name of applicant;
 - (2) ~~the name or general description of the common source or sources of supply or the area affected by the order sought;~~
 - ~~(3)~~ (2) briefly the general nature of the order or rule or regulation sought; and
 - ~~(4)~~ (3) any other matter required by a particular rule or rules, or order of the Division.
- (4) a list of the names and addresses of affected parties to whom notice has been sent.

The application shall be signed by the person seeking the hearing or by his its attorney

~~1203.B. When conditions are such as to require verbal application to place a matter for hearing on a given docket, the Division will accept such verbal application in order to meet publishing deadlines. However, if written application, filed in accordance with the procedures outlined above, has not been received by the Division's Santa FE office at lease ten days before the date of the hearing, the case will be dismissed.~~

In order that the applications can be published as required, all applications for hearings must be received by the Division or Commission at least 23 days in advance of the date of the hearing on that application (note: based upon Ramey Memo dated 3/30/84)

1204 PUBLICATION OF NOTICE OF HEARING

Notice of each hearing before the Commission ~~and before or~~ a Division Examiner shall be by publication once in accordance with the requirements of NMSA 1978, Chapter 14, Article 11, in a newspaper of general circulation in the ~~county, or each of the counties if there be more than one, in which any land, oil, gas or other property which is that are~~ affected by the application may be situated.

1205 CONTENTS OF NOTICE OF HEARING

1205.A Published notices shall be issued in the name of "The State of New Mexico" and shall be signed by the Director of the Division, and the seal of the Commission shall be impressed thereon.

1205.B The notice shall specify whether the case is set for hearing before the Commission or ~~before~~ a Division Examiner and shall state the number and style of the case and the time and place of hearing and shall briefly state the general nature of the ~~application or order or orders, rules or rules, regulations or regulations to be promulgated or effected.~~ The notice shall also state the name of the ~~petitioner or~~ applicant, if any, and ~~unless the contemplated order, rule, or regulations is intended to apply to and affect the entire state, it shall specify or generally described the common sources of supply or sources of supply which state the counties that may be affected if the application is granted. by such order, rule or regulations.~~

1206 **RESERVED** (formerly "PREPARATION OF NOTICES")

1207 ADDITIONAL NOTICE REQUIREMENTS ADJUDICATION PROCEEDINGS:

When the Commission, the Division, an operator or any interest owner applies for a hearing for any of the following specifically listed cases, such application shall constitute a request for an adjudication for which the following notice requirements shall apply:

(I) ~~In cases of~~ Applications filed for **compulsory pooling** under Section 70-2-17 NMSA 1978, as amended, or **statutory unitization** under Section 70-7-1, et seq NMSA 1978, as amended:

~~(a) Actual notice shall be given to each known individual owing an uncommitted leasehold interest, an unleased and uncommitted mineral interest, or royalty interest not subject to a pooling or unitization clause in the lands affected by such application which interest must be committed and has not been voluntarily committed to the area proposed to be pooled or unitized. Notice shall be given to any interest owner whose interest is evidenced by a written document of conveyance either of record or delivered to the applicant as of the date the application is filed with the Division and whose interest has not been voluntarily committed to the proposed spacing unit or area to be unitized. Such individual notice in compulsory pooling or statutory unitization cases shall be by certified mail (return receipt) requested~~

~~(b) When an application for compulsory pooling is known to be unopposed~~
When the applicant is unable to locate all parties whose interests are to be pooled and when the compulsory pooling application is unopposed by those parties who have been located, the applicant may file under the following alternative procedure:

(i) ~~Actual~~ notice shall be given as required in (a) above. The application shall be set for hearing at which time the applicant or its attorney shall, in the absence of witnesses, present sworn affidavits from its expert witnesses, as appropriate, for hearing ~~shall state that no opposition for hearing is expected and~~ which shall include the following:

(ii) a map outlining the spacing unit(s) to be pooled showing the nature and percentage of the ownership interests therein and location of the proposed well;

(iii) ~~a list showing~~ the names and last known address of all parties to be pooled and the nature and percent of their interest attesting that a diligent search has been conducted of all public records in the county where the well is located, and phone directories including CD Rom computer searches of Phone Directories;

(iv) the names of the formations and ~~for~~ pools to be pooled. (Note: the Division cannot pool a spacing unit larger in size than provided in the General Rules or ~~appropriate~~ applicable special pool rules);

(v) a statement as to whether the pooled unit is for gas and/or oil production as ~~appropriate~~ (see note under (iv) above);

(vi) written evidence of attempts made to gain voluntary agreement including but not limited to copies of ~~appropriate~~ relevant correspondence;

(vii) ~~appropriate~~ geological maps(s) of the formation(s) to be tested and a geological and ~~or~~ engineering assessment of the risk involved in the drilling of the well and a proposed risk penalty to be assessed against any interest owner who ~~chooses~~ does not pay his share of the estimated well costs;

(viii) proposed overhead charges (combined fixed rates) to be applied during drilling and production operations along with ~~a demonstration that the basis for such changes~~ charges are reasonable;

(ix) the location and proposed depth of the well to be drilled on the pooled unit(s); and,

(x) a copy of the AFE Authorization for Expenditure ("AFE") to be submitted to the interest owners in the well.

~~(3) All submittals required under this paragraph shall be accompanied by statements (sworn and notarized) by those person who prepared the same attesting that the information is true and complete to the best of their knowledge and belief.~~

~~(4) (ii) All unopposed pooling application will be set for hearing. If the Division review of such application find them acceptable, finds the affidavits submitted at the hearing complete, the information submitted above will be incorporated as the record in the case and an order will be written thereon issued based on the record. At the request of any interested party or upon the Division's own initiative, any pooling application submitted under paragraph (2) of under this rule shall be set for hearing with oral testimony by the applicant.~~

~~(5) (2) In cases of application for approval of Unorthodox Well Locations:~~

~~(a) If the proposed location is unorthodox by virtue of being located closer to the outer boundary of the spacing unit than permitted by rule, actual notice shall be given to any operator of a spacing unit or owner of an undrilled lease which adjoins the applicant's spacing unit on one or more of the two sides or the single corner closest to the proposed well.~~

~~(b) If the proposed location is unorthodox by virtue of its proximity to another well or wells within the same spacing unit, actual notice shall be given to offsetting operators or owners of undrilled leases bordering applicant's spacing unit on a common boundary or unit corner.~~

~~(c) If the proposed location is unorthodox by virtue of being located in a different quarter-quarter section or quarter section than provided in special pool rules, actual notice shall be given to offset operators or owners of undrilled leases bordering applicant's spacing unit on a common boundary or unit corner.~~

~~(d) All such notices shall be given by certified mail (return receipt requested).~~

~~Applicant shall send notice by certified mail (return receipt) to the following affected parties in adjoining existing or prospective spacing unit(s) in the same pool(s) as the proposed unorthodox well location towards which the unorthodox well location encroaches:~~

(a) for existing adjoining spacing units:

(i) the Division designated operator: and

(ii) in the event the applicant is also the operator of the existing adjoining spacing unit which contains different working interest owners or different percentages of ownership, then to all working interest owners in those spacing units.⁴

(b) for prospective adjoining spacing units:

(i) all lessees of record and any unleased mineral owners of conveyances the existence of which is known to applicant or is of public record; and

(ii) in the event the prospective spacing unit will be rectangular shaped, then notice shall be sent to those affected owners within that one-half of the adjoining prospective spacing unit which consists of a standard sized government quarter section or quarter-quarter section, as applicable, and which is closest to the unorthodox well location

⁴ RPC is divided on this requirement. A number of committee members would delete paragraph (a)(ii)

~~(6)~~ (3) ~~In cases of applications for approval of any~~ **Non-standard Proration Unit:**

~~Actual~~ notice shall be given to:

~~(A) all operators owning a leasehold interest interest owners to be excluded from the proration unit in the quarter-quarter section (for 40-acre pools or formations), the one-half quarter section (for 80-acre pools or formations; the quarter section (for 160-acre pools or formations), the half section (for 320-acre pools or formations) or the section (for 640-acre pools or formations) in which the non-standard unit is located and to each operator on any proration unit, or owner of an undrilled tract, which unit or tract adjoins or corners such quarter-quarter, quarter, half, or whole section. Such notice shall be by certified mail (return receipt).and~~

~~(B) to the Division designated operator of the existing spacing units in the same pool(s) which adjoin the standard spacing unit containing the proposed non-standard spacing unit.~~

~~(7)~~ (4) ~~In the case of application for a~~ **Adoption of or amendment to special pool rules of orders regulating or affecting a specific pool:**

~~(a) Except for non-standard proration unit applications, if the application involves changing the amount of acreage to be dedicated to a well in a pool, then notice shall be sent by certified mail (return receipt) to:~~

~~(i) all the Division designated operators in the pool; and~~

~~(ii) all working, royalty and overriding royalty interest owners in existing spacing and proration units with producing wells;~~

~~*****~~

~~(b) If the application involves matters other than changing the amount of acreage to be dedicated to a well in a pool, then notice shall be sent by certified mail (return receipt) to:~~

~~(i) all the Division designated operators in the pool; and~~

~~(ii) all Division designated operators of wells within this formation and within one (1) mile of the outer boundary of this pool which have not been assigned to another pool.~~

~~(8) (5) In the case of applications to Amend special rules or orders of regarding~~
any Division designated **potash area** actual notice shall be given to each potash owner
lessee, each oil or gas operator, and each unleased mineral owner within the designated
potash area. Such notice shall be provided sent by certified mail (return receipt).

~~(9) (6) In the case of applications for approval of Downhole Commingling of the~~
product of production from multiple formations ~~(a) Actual notice shall be given to all~~
~~offset operators. Such notice shall be provided by regular mail notice shall be sent~~
certified mail (return receipt) to all owners in the spacing unit if they are not common for
all commingled zones within this spacing unit.

~~(10) (7) In cases of Applications for exceptions or orders controlling surface~~
disposal of produced water or other fluids: ~~(a) Actual Notice shall be given sent by~~
certified mail (return receipt) to any surface owner within one-half mile of the site for
which the exception or order is sought. Such notice shall be provided by certified mail
(return receipt requested)

~~(11) (8) In cases of Applications for adjudications not listed above, the outcome~~
of which may affect a property interest of other individuals or entities notice shall be sent
by certified mail (return receipt) to all affected parties.

~~(a) Actual notice shall be given to such individuals or entities by certified~~
mail (return receipt).

1207.B C. CONTENT OF NOTICE Any notice required by this rule shall be sent
to the last known address of the party to whom notice is to be given at least 20 days prior
to the date of the hearing of the application and shall include a copy of the application,
and shall apprise such party of the nature and pendency of such action and the means by
which protests may be made.

1207.C. D. At each the hearing, the applicant shall ~~cause to be made~~ make a
record, either by testimony at the hearing or by an affidavit signed by the applicant or its
authorized representative, that: the notice provisions of this rule 1207 have been complied
with; that the applicant has conducted a good-faith, diligent effort to find the correct
address of all interested persons entitled to received notice; and that pursuant to Rule
1207 this rule, notice has been given at the correct address as provided required by this
rule. In addition, such certificate the record shall contained the names and addresses of
each interested person to whom such notice was sent and, when proof of receipt is
available, a copy of same.

~~1207.D.~~ E. Evidence of failure to provide notice as provided in this rule, may, upon proper showing, be considered cause for reopening the case.

1208 FILING PLEADING: COPY DELIVERED TO ADVERSE PARTY OR PARTIES

~~1208.A~~ When any party to a hearing files any pleading or correspondence ~~plea or motion~~ of any character (other than an application for hearing) ~~which is not by law or by these rules required to be served upon the adverse party or parties, he~~ it shall at the same time either hand deliver or transmit by facsimile or mail to the adverse party or parties who have entered their appearance therein, or their respective attorneys of record, a copy of such pleading or correspondence, ~~plea or motion. For the purposes of these rules~~ An appearance of any interested party shall be made either by letter addressed to the Division or in person at any proceeding before the Commission or before an Examiner, with notice of such appearance to the parties from who such pleadings or correspondence ~~pleas or motions~~ are desired.

~~1208.B~~ Parties to an adjudicatory proceeding must file a prehearing statement three days in advance of a scheduled hearing before the Division or the Commission. The statement must include: the names of the opposition parties and their attorneys; a concise statement of the case and, if applicable the grounds for opposition; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and the identification of any procedural matters that are to be resolved prior to the hearing. Two copies of the prehearing statements must be filed for Division hearings and five copies must be filed for Commission hearings. Failure to timely file a prehearing statement may adversely affect that party's standing and may preclude that party from participating in the case.
(note: based upon LeMay Memo dated 4/30/90)

1210 CONDUCT OF HEARINGS

Hearings before the Commission or Examiner shall be conducted without rigid formality. A transcript of testimony shall be taken and preserved as part of the permanent records of the Division. Any person testifying ~~in response to a subpoena issued by the Commission or any member thereof, or the authorized representative of the Division Director, and any person seeking to testify in support of an application or motion or in opposition thereto~~ shall be required to do so under oath. However, relevant unsworn comments and observations of any interested party will be designated as such and included in the record provided that they are received by both the Division and applicant prior to the hearing. ~~Comments and observations by representatives of operators' committees, the United States Geological Survey, the United States Bureau of Mines, the New Mexico Bureau of Mines, and other competent persons are welcomed. Any Examiner legally appointed by the Division Director may conduct such hearings are may be referred to such Examiners by the Director.~~

1212 RULES OF EVIDENCE AND EXHIBITS

1212.B. Parties introducing exhibits at hearing before the Commission or Division must provide a complete set of exhibits for the court reporter, each Commissioner or Hearing Examiner and other parties who have timely filed a prehearing statement. (note: based upon LeMay Memo dated 2/8/90)

1220 DE NOVO HEARING BEFORE COMMISSION AND STAYS OF DIVISION ORDERS

1220.A. When any order has been entered by the Division pursuant to any hearing held by an Examiner, any party of record adversely affected by such order shall have the right to have such matter or proceeding heard de novo before the Commission, provided that within thirty (30) days from the date such order is rendered such party files with the Division a written application for such hearing ~~before the Commission~~. If such application is filed, the matter or proceeding shall be set for hearing before the Commission at the first available hearing date following the expiration of fifteen days from the date such application was filed with the Division.

B. Any party requesting a stay of a Division order must file a written request not later than the last day a de novo hearing may be sought. A copy of the request for a stay must be provided to the other parties of record or their attorneys in the case at the time the request is filed. The request must have attached a proposed stay order. Notwithstanding this rule, the Division Director may grant stays under other circumstances if such a stay is necessary to prevent waste, protect correlative rights, protect public health and the environment or prevent gross negative consequences to any affected party. (note: based upon Stamets Memo dated 9/23/85)

1220.C. Any party to the proceeding adversely affected by the order or decision rendered by the Commission after hearing before the Commission may apply for rehearing pursuant to ~~and in accordance with the provisions of Rule 1222 and said Rule 1222 together with the law applicable to rehearings and appeals in matters and proceedings before the Commission shall thereafter apply.~~

1223 EX PARTE COMMUNICATIONS:

In an adjudicatory proceeding, at no time after the filing of an application for hearing or after receiving notice from the Division that an objection has been filed to an administrative application, shall any party, interested participant or their attorneys or representatives discuss the substantive issues involved in the proceedings with any Commissioner or Examiner unless all other parties to the proceeding are present.

1224 REPRESENTATION BEFORE THE DIVISION OR COMMISSION:

Representation of other individuals or other business entities in a Commission or Division adjudicatory proceeding constitutes the practice of law and parties shall be represented by attorneys at law who are authorized to practice in the State of New Mexico.