

Rule 104: Current as of June 5, 1997

104 WELL SPACING:

ACREAGE REQUIREMENTS FOR DRILLING TRACTS

104.A. CLASSIFICATION OF WELLS: WILDCAT WELLS AND DEVELOPMENT WELLS

(1) San Juan, Rio Arriba, Sandoval, and McKinley Counties

(a) Any well which is to be drilled the spacing unit of which is a distance of 2 miles or more from:

(i) the outer boundary of any defined pool which has produced oil or gas from the formation to which the well is projected; and

(ii) any other well which has produced oil or gas from the formation to which the proposed well is projected, shall be classified as a wildcat well. [12-29-52...2-1-96]

(2) All Counties Except San Juan, Rio Arriba, Sandoval, and McKinley

(a) Any well which is to be drilled the spacing unit of which is a distance of one mile or more from:

(i) the outer boundary of any defined pool which has produced oil or gas from the formation to which the well is projected; and

(ii) any other well which has produced oil or gas from the formation to which the proposed well is projected, shall be classified as a wildcat well. [12-29-52...2-1-96]

(3) Any well which is not a wildcat well as defined above shall be classified as a development well for the nearest pool which has produced oil or gas from the formation to which the well is projected. Any such development well shall be spaced, drilled, operated, and produced in accordance with the rules and regulations in effect in such nearest pool, provided the well is completed in the formation to which it was projected. [5-25-64...2-1-96]

(4) Any well classified as a development well for a given pool but which is completed in a producing horizon not included in the vertical limits of said pool shall be operated and produced in accordance with the rules and regulations in effect in the nearest pool within the 2 mile limit in San Juan, Rio Arriba, Sandoval, and McKinley Counties or within one mile everywhere else which is producing from that horizon. If there is no designated pool for said producing horizon within the 2 mile limit in San Juan, Rio Arriba, Sandoval, and McKinley Counties or within one mile everywhere else, the well shall be re-classified as a wildcat well. [5-25-64...2-1-96]

104.B. ACREAGE AND WELL LOCATION REQUIREMENTS FOR WILDCATS

(1) Lea, Chaves, Eddy and Roosevelt Counties

(a) Wildcat Gas Wells. In Lea, Chaves, Eddy and Roosevelt Counties, a wildcat well which is projected as a gas well to a formation and in an area which, in the opinion of the engineer or supervisor approving the application to drill, may reasonably be presumed to be productive of gas rather than oil shall be located on a drilling tract consisting of 160 surface contiguous acres, more or less, substantially in the form of a square which is a quarter section, being a legal subdivision of the U.S. Public Land Surveys, and shall be located not closer than 660 feet to any outer boundary of

such tract nor closer than 330 feet to any quarter-quarter section or subdivision inner boundary. Provided, however, that any such wildcat gas well which is projected to the Wolfcamp or older formations shall be located on a drilling tract consisting of 320 surface contiguous acres, more or less, comprising any two contiguous quarter sections of a single governmental section, being a legal subdivision of the U.S. Public Land Surveys. Any such "deep" wildcat gas well to which is dedicated more than 160 acres shall be located not closer than 660 feet to the nearest side boundary of the dedicated tract nor closer than 1650 feet to the nearest end boundary, nor closer than 330 feet to any quarter-quarter section or subdivision inner boundary. (For the purpose of this rule, "side" boundary is defined as one of the outer boundaries running lengthwise to the tract's greatest overall dimensions; "end" boundary is defined as one of the outer boundaries perpendicular to a side boundary and closing the tract across its least overall dimension.) [5-25-64...2-1-96]

- (b) Wildcat Oil Wells. In Lea, Chaves, Eddy, and Roosevelt Counties, a wildcat well which is not a wildcat gas well as defined above shall be located on a tract consisting of approximately 40 surface contiguous acres substantially in the form of a square which is a legal subdivision of the U.S. Public Land Surveys, or on a governmental quarter-quarter section or lot, and shall be located not closer than 330 feet to any boundary of such tract. [5-25-64...2-1-96]
- (c) In the event gas production is encountered in a well which was projected as an oil well and which is located accordingly but does not conform to the above gas well location rule, it shall be necessary for the operator to bring the matter to a hearing before approval for the production of gas can be given. [5-25-64...2-1-96]

(2) San Juan, Rio Arriba, Sandoval and McKinley Counties

- (a) Shallow Wildcat Gas Wells. In San Juan, Rio Arriba, Sandoval and McKinley Counties, a wildcat well which is projected to a gas-producing horizon in a formation younger than the Dakota formation, or in the Dakota formation, which was created and defined by the Division after March 1, 1997, shall be located on a designated drilling tract consisting of 160 contiguous surface acres, more or less, substantially in the form of a square which is a quarter section, being a legal subdivision of the U.S. Public Land Survey, and shall be located not closer than 790 feet to any outer boundary of the tract nor closer than 130 feet to any quarter-quarter section line or subdivision inner boundary. [5-25-64...2-1-96; 6-30-97]
- (b) Deep Wildcat Gas Wells. In San Juan, Rio Arriba, Sandoval and McKinley Counties, a wildcat well which is projected to a gas-producing formation in a formation older than the Dakota formation (below the base of the Cretaceous period) and
 - (i) located within the surface outcrop of the Pictured Cliffs formations (i.e., the "San Juan Basin") shall be located on a designated drilling tract consisting of 640 contiguous surface acres, more or less, substantially in the form of a square which is a section, being a legal subdivision of the U.S. Public Land Survey, and shall be located not closer than 1200 feet to any outer boundary of the tract nor closer than 130 feet to any quarter section line nor closer than 10 feet to any quarter-quarter section line or subdivision inner boundary; or
 - (ii) located outside the surface outcrop of the Pictured

Cliffs formations (i.e., the "San Juan Basin") shall be located on a designated drilling tract consisting of 160 contiguous surface acres, more or less, substantially in the form of a square which is a section, being a legal subdivision of the U.S. Public Land Survey, and shall be located not closer than 790 feet to any outer boundary of the tract nor closer than 130 feet to any quarter section line, quarter-quarter section line or subdivision inner boundary. [5-25-64...2-1-96; 6-30-97]

- (c) Wildcat Oil Wells. A wildcat well which is projected to an oil-producing horizon as recognized by the Division shall be located on a tract consisting of approximately 40 surface contiguous acres substantially in the form of a square which is a legal subdivision of the U.S. Public Land Surveys, or on a governmental quarter-quarter section or lot, and shall be located not closer than 330 feet to any boundary of such tract. [5-25-64...2-1-96]
- (d) In the event a well drilled as an oil well is completed as a gas well and is located accordingly but does not conform to the above gas well location rules, it shall be necessary for the operator to apply for administrative approval for a non-standard location before the well can produce. An application may be set for hearing by the Director. If the operator is uncertain as to whether a proposed wildcat well will be an oil well or a gas well, the well should be staked so that it is in a standard location for both oil and gas production. [5-25-64...2-1-96]

(3) All Counties except Lea, Chaves, Eddy, Roosevelt, San Juan, Rio Arriba, Sandoval, and McKinley.

- (a) Any wildcat well which is projected as an oil well in any county other than Lea, Chaves, Eddy, Roosevelt, San Juan, Rio Arriba, Sandoval, and McKinley Counties shall be located on a tract consisting of approximately 40 surface contiguous acres substantially in the form of a square which is a legal subdivision of the U.S. Public Land Surveys, or on a governmental quarter-quarter section or lot and shall be located not closer than 330 feet to any boundary of such tract. [1-1-50...2-1-96]
- (b) Any wildcat well which is projected as a gas well to a formation and in an area which, in the opinion of the Division representative approving the application to drill, may reasonably be presumed to be productive of gas rather than oil shall be located on a drilling tract consisting of 160 surface contiguous acres, more or less, substantially in the form of a square which is a quarter section, being a legal subdivision of the U.S. Public Land Surveys, and shall be located not closer than 660 feet to any outer boundary of such tract nor closer than 330 feet to any quarter-quarter section or subdivision inner boundary. [1-1-50...2-1-96]

104.C. ACREAGE AND WELL LOCATION REQUIREMENTS FOR DEVELOPMENT WELLS

(1) Oil Wells, All Counties.

- (a) Unless otherwise provided in special pool rules, each development well for a defined oil pool shall be located on a tract consisting of approximately 40 surface contiguous acres substantially in the form of a square which is a legal subdivision of the U.S. Public Land Surveys, or on a governmental quarter-quarter section or lot, and shall be located not closer than 330 feet to any boundary of such tract nor closer than 330 feet to the nearest well drilling to or capable of producing from the same pool, provided however, only tracts committed to active secondary recovery projects shall be permitted more than four wells. [5-25-64...2-1-96]

(2) Lea, Chaves, Eddy and Roosevelt Counties.

- (a) Gas Wells. Unless otherwise provided in special pool rules, each development well for a defined gas pool in a formation younger than the Wolfcamp formation, or in the Wolfcamp formation which was created and defined by the Division prior to November 1, 1975, or in a Pennsylvanian age or older formation which was created and defined by the Division prior to June 1, 1964, shall be located on a designated drilling tract consisting of 160 surface contiguous acres, more or less, substantially in the form of a square which is a quarter section being a legal subdivision of the U.S. Public Land Surveys, and shall be located not closer than 660 feet to any outer boundary of such tract nor closer than 330 feet to any quarter-quarter section or subdivision inner boundary nor closer than 1320 feet to the nearest well drilling to or capable of producing from the same pool. [5-25-64...2-1-96]
- (b) Unless otherwise provided in the special pool rules, each development well for a defined gas pool in the Wolfcamp formation which was created and defined by the Division after November 1, 1975, or of Pennsylvanian age or older which was created and defined by the Division after June 1, 1964, shall be located on a designated drilling tract consisting of 320 surface contiguous acres, more or less, comprising any two contiguous quarter sections of a single governmental section, being a legal subdivision of the U.S. Public Land Surveys. Any such well having more than 160 acres dedicated to it shall be located not closer than 660 feet to the nearest side boundary of the dedicated tract nor closer than 1650 feet to the nearest end boundary, nor closer than 330 feet to any quarter-quarter section or subdivision inner boundary. (For the purpose of this rule, "side" boundary and "end" boundary are as defined in Rule 104.B(1)(a), above.) [5-25-64...2-1-96]

(3) San Juan, Rio Arriba, Sandoval and McKinley Counties:

- (a) Shallow Gas Wells. Unless otherwise provided in special pool rules, each development well for a defined gas pool in a formation younger than the Dakota formation, or in the Dakota formation, which was created and defined by the Division after March 1, 1997, shall be located on a designated drilling tract consisting of 160 contiguous surface acres, more or less, substantially in the form of a square which is a quarter section, being a legal subdivision of the U.S. Public Land Survey, and shall be located not closer than 790 feet to any outer boundary of the tract nor closer than 130 feet to any quarter-quarter section line or subdivision inner boundary. [5-25-64...2-1-96; 6-30-97]
- (b) Deep Gas Wells. Unless otherwise provided in special pool rules, each development well for a defined gas pool in a formation older than the Dakota formation (below the base of the Cretaceous period) and
- (i) is located within the surface outcrop of the Pictured Cliffs formations (i.e., the "San Juan Basin") which pool was created and defined by the Division after June 1, 1997, shall be located on a designated drilling tract consisting of 640 contiguous surface acres, more or less, substantially in the form of a square which is a section, being a legal subdivision of the U.S. Public Land Survey, and shall be located not closer than 1200 feet to any outer boundary of the tract nor closer than 130 feet to any quarter section line nor closer than 10 feet to any quarter-quarter section line or subdivision inner boundary; or
- (ii) is located outside the surface outcrop of the Pictured Cliffs formations (i.e., the "San Juan Basin") which

pool was created and defined by the Division after June 1, 1997, shall be located on a designated drilling tract consisting of 160 contiguous surface acres, more or less, substantially in the form of a square which is a section, being a legal subdivision of the U.S. Public Land Survey, and shall be located not closer than 790 feet to any outer boundary of the tract nor closer than 130 feet to and quarter section line, quarter-quarter section line or subdivision inner boundary. [5-25-64...2-1-96; 6-30-97]

(4) All Counties except Lea, Chaves, Eddy, Roosevelt, San Juan, Rio Arriba, Sandoval, and McKinley.

- (a) Gas Wells. Unless otherwise provided in special pool rules, each development well for a defined gas pool shall be located on a designated drilling tract consisting of 160 surface contiguous acres, more or less, substantially in the form of a square which is a quarter section, being a legal subdivision of the U.S. Public Land Surveys, and shall be located not closer than 660 feet to any outer boundary of such tract nor closer than 330 feet to any quarter-quarter section or subdivision inner boundary nor closer than 1320 feet to the nearest well drilling to or capable of producing from the same pool. [5-25-64...2-1-96]

104.D. ACREAGE ASSIGNMENT

(1) Well Tests and Classification. It shall be the responsibility of the operator of any wildcat gas well or development gas well to which more than 40 acres has been dedicated to conduct a potential test within 30 days following completion of the well and to file the same with the Division within 10 days following completion of the tests. (See Rule 401.) [5-25-64...2-1-96]

- (a) Date of completion for a gas well shall be the date a wellhead is installed or 30 days following conclusion of active completion work on the well, whichever date comes first. [5-25-64...2-1-96]
- (b) Upon making a determination that the well should not properly be classified as a gas well, the Division will reduce the acreage dedicated to the well. [5-25-64...2-1-96]
- (c) Failure of the operator to file the aforesaid tests within the specified time will also subject the well to such acreage reduction. [5-25-64...2-1-96]

(2) Non-Standard Spacing Units. Any well which does not have the required amount of acreage dedicated to it for the pool or formation in which it is completed may not be produced until a standard spacing unit for the well has been formed and dedicated or until a non-standard spacing unit has been approved. [5-25-64...2-1-96]

- (a) The supervisor of the appropriate District Office of the Division shall have the authority to approve non-standard spacing units without notice when the unorthodox size and shape is necessitated by a variation in the legal subdivision of the United States Public Land Surveys and/or consists of an entire governmental section and the non-standard spacing unit is not less than 70% nor more than 130% of a standard spacing unit. Such approval shall consist of acceptance of Division Form C-102 showing the proposed non-standard spacing unit and the acreage contained therein. [5-25-64...2-1-96]
- (b) The Division Director may grant administrative approval to 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:

- (i) The non-standard spacing unit consists of a single quarter-quarter section or lot or the non-standard spacing unit consists of quarter-quarter sections or lots that are contiguous by a common bordering side; and
 - (ii) The non-standard spacing unit lies wholly within a single governmental quarter section if the well is completed in a pool or formation for which 40, 80, or 160 acres is the standard spacing unit size, wholly within a single governmental half section if the well is completed in a pool or formation for which 320 acres is the standard spacing unit size, or wholly within a single governmental section if the well is completed in a pool or formation for which 640 acres is the standard spacing unit size. [5-25-64...2-1-96]
- (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. [5-25-64...2-1-96]
- (i) Affected parties in this instance shall be defined as those parties who own interests in the applicable half quarter section (80-acre 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 non-standard spacing unit;
 - (ii) the designated operator of any adjoining or diagonal spacing unit producing from the same pool(s) as 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 lessee, then to all owners of record of unleased mineral interests. [5-25-64...2-1-96]
- (d) The applicant shall submit a statement attesting that applicant, on or before the same date the application was submitted to the Division, has sent notification to the affected parties by submitting a copy of the application, including a copy of the plat described in Subpart (c) above by certified or registered mail-return receipt in accordance with Rule 1207(6)(a) advising them that if they have an objection it must be filed in writing within twenty days from the date notice was sent. The Division Director may approve the non-standard spacing unit upon receipt of waivers from all said parties or if no said party has entered an objection to the non-standard spacing unit within 20 days after the Director has received the application. [5-25-64...2-1-96]
- (e) The Division Director may set any application for administrative approval for a non-standard spacing unit for public hearing. [5-25-64...2-1-96]

(3) Number of Wells Per Spacing Unit in Non-Prorated Gas Pools:
 Unless otherwise permitted by special pool rules or authorized after notice and

hearing, only one (1) well per spacing unit is permitted in non-prorated pools. [5-25-64...2-1-96]

104.E. Form C-102, "Well Location and Acreage Dedication Plat", for any well shall designate the exact legal subdivision allotted to the well and Form C-101, "Application for Permit to Drill, Deepen, or Plug Back", will not be approved by the Division without such proper designation of acreage. [12-29-52...2-1-96]

104.F. UNORTHODOX LOCATIONS

(1) Well locations for producing wells and/or injection wells which are unorthodox based on the well location requirements of Rule 104.C(1)(a) above and which are necessary to permit the completion of an efficient production and injection pattern within a secondary recovery, tertiary recovery, or pressure maintenance project are hereby authorized, provided that any such unorthodox location within such project is no closer than the required minimum orthodox distance to the outer boundary of the lease or the unitized area, nor closer than 10 feet to any quarter-quarter section line or subdivision inner boundary. Such locations shall only require such prior approval as is necessary for an orthodox location. [1-1-50...2-1-96]

(2) The Division Director shall have authority to grant an exception to the well location requirements of Sections 104.B and 104.C above or to the well location requirements of special pool rules without notice and hearing when the necessity for such unorthodox location is based upon geologic conditions, archaeological conditions, topographical conditions, or the recompletion of a well previously drilled to a deeper horizon provided said well was drilled at an orthodox or approved unorthodox location for such original horizon. [1-1-82...2-1-96]

(3) Applications for administrative approval of unorthodox locations pursuant to Rule 104.F(2), above, shall be accompanied by a plat showing the subject spacing 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. [2-9-66...2-1-96]

(a) Adjoining and diagonal spacing units shall be defined as those immediately adjacent existing spacing units in the same pool(s) as the proposed unorthodox well and towards which the unorthodox well location encroaches. [2-9-66...2-1-96]

(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

(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. [2-9-66...2-1-96]

(4) The applicant shall submit a statement attesting that applicant, on or before the same date the application was submitted to the Division, has 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 or registered mail-return receipt in accordance with Rule 1207(A)(5) advising them that if they have an objection it must be filed in writing within twenty days from the date notice was sent. The Division Director may approve the unorthodox location upon receipt of waivers from all said parties or if no said party has entered an objection to the unorthodox location within 20 days after the Director has received the application. [2-9-66...2-1-96]

(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(s). [1-1-82...2-1-96]

104.G. Whenever an exception is granted, the Division may take such action as will offset any advantage which the person securing the exception may obtain over other producers by reason of the unorthodox location. [1-1-50...2-1-96]

104.H. If the drilling tract is within an allocated oil pool or is placed within such allocated pool at any time after completion of the well and the drilling tract consists of less than 39 1/2 acres or more than 40 1/2 acres, the top unit allowable for such well shall be increased or decreased in the proportion that the number of acres in the drilling tract bears to 40. [1-1-50...2-1-96]

104.I. If the drilling tract is within an allocated gas pool or is subsequently placed within an allocated gas pool, and the drilling tract consists of less than 158 acres or more than 162 acres in 160-acre pools, or less than 316 acres or more than 324 acres in 320-acre pools, the top allowable for such well shall be decreased or increased in the proportion that the number of acres in the drilling tract bears to a standard spacing unit for the pool. [1-1-50...2-1-96]

104.J. In computing acreage under Rules 104.H and 104.I above, minor fractions of an acre shall not be counted but 1/2 acre or more shall count as 1 acre. [1-1-50...2-1-96]

104.K. The provisions of Rules 104.H and 104.I above shall apply only to wells completed after January 1, 1950. Nothing herein contained shall affect in any manner any well completed prior to the effective date of this rule and no adjustments shall be made in the allowable production for any such wells by reason of these rules. [1-1-50...2-1-96]

104.L. In order to prevent waste the Division may, after notice and hearing, fix different spacing requirements and require greater acreage for drilling tracts in any defined oil pool or in any defined gas pool notwithstanding the provisions of Rules 104.B and 104.C above. [1-1-50...2-1-96]

104.M. The Division may approve the pooling or communitization of fractional lots of 20.49 acres or less with another oil spacing unit when:

- (1) The tracts involved are contiguous;
 - (2) They are part of the same basic lease, carrying the same royalty interest; and
 - (3) The ownership of the tracts involved is common.
- [6-19-52...2-1-96]

104.N. Application to the Division for pooling shall be accompanied by three (3) copies of a certified plat showing the dimensions and acreage involved in the pooling, the ownership of all leases and royalty interests involved, and the location of any proposed wells. [6-19-52...2-1-96]

104.O. The Division shall wait at least ten 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, the Division shall consider the matter only after proper notice and hearing. [6-19-52...2-1-96]

104.P. The Division may waive the ten-day waiting period requirement if the applicant furnishes the Division with the written consent to the pooling by all offset operators involved. [6-19-52...2-1-96]

104.Q. The Division may consider that the requirements of Rules 104.M(2) and (3) have been fulfilled if the applicant furnishes with each copy of each application to the Division a copy of executed pooling agreement communitizing the tracts involved. [6-19-52...2-1-96]

104.R. REPEALED [2-1-96]

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. *Within twenty (20) days after receipt of a complete application*, 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.

(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. *Within twenty (20) days after receipt of a complete application, 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 the 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.

CHRONOLOGY

- October 30, 1997: Director LeMay appoints Tom Kellahin as Chairman of a notice rule committee composed of Randy Carroll and Bill Carr.
- January 15, 1998: First Discussion Draft dated January 15, 1998
- January 18, 1998: Kellahin prepares and submits draft of notice changes to committee for discussion.
- January 23, 1998: Kellahin, Stogner, Catanach, Carroll meet and discuss first draft
- January 27, 1998: Second Revised draft prepared and submitted for discussion
- February, 1998: Kellahin & Carroll discuss revisions to draft
- February 9, 1998: NMOGA's Regulatory Practices Committee ("RPC") discuss draft
- March 1, 1998: draft comments from Stogner
- March 1, 1998: Revised draft prepared and circulated to committee
NMOGA-OCD Draft dated March 1, 1998
- March 2, 1998: RPC meeting discussed draft
- April 7, 1998: RPC meeting to discuss draft
- May 12, 1998: RPC discusses notice
- June , 1998: RPC discusses notice
- July , 1998: RPC discusses notice
- August 4, 1998: Kellahin, Carroll meeting with Lyn Hebert to discuss her draft NMOGA-OCD Draft dated August 4, 1998
- August 5, 1998: RPC meeting

October 9, 1998: RPC meeting

November 13, 1998: Carroll, Hebert, Kellahin discuss August 4, 1998 draft and Lyn's Oct 9, 1998 draft

November 14, 1998: NMOGA-OCD Draft revised and dated November 15, 1998

November 16, 1998: RPC discuss draft
Draft dated November 15, 1998

December 7, 1998: RPC meeting on draft
Draft dated December 9, 1998

January 12, 1999: RPC meeting discussed latest draft

January 13, 1999: RPC revised draft
Draft dated January 13, 1999

January 14, 1999: Commission initial hearing on notice

January 15, 1999: RPC draft dated January 13, 1999 made available to Association and comments requested.

April 7, 1999: RPC meeting--draft finalized and submitted to Commission
Draft dated April 7, 1999

INDUSTRY PARTICIPANTS

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SUMMARY OF CHANGES

(1) **RULE 104.D(2) Non-Standard Proration and Spacing Units:**

Current Rule:

Affected Parties are:

- (1) all categories of owners (WIO, ORR & R) in the standard spacing unit in which the proposed NSP is located and which is not included in the proposed NSP; and
- (2) offset operators in adjoining spacing units;
- (3) in the absence of an offset operator, then lessees of adjoining leases;
- (4) in absence of lessee then mineral owners

Proposed Change:

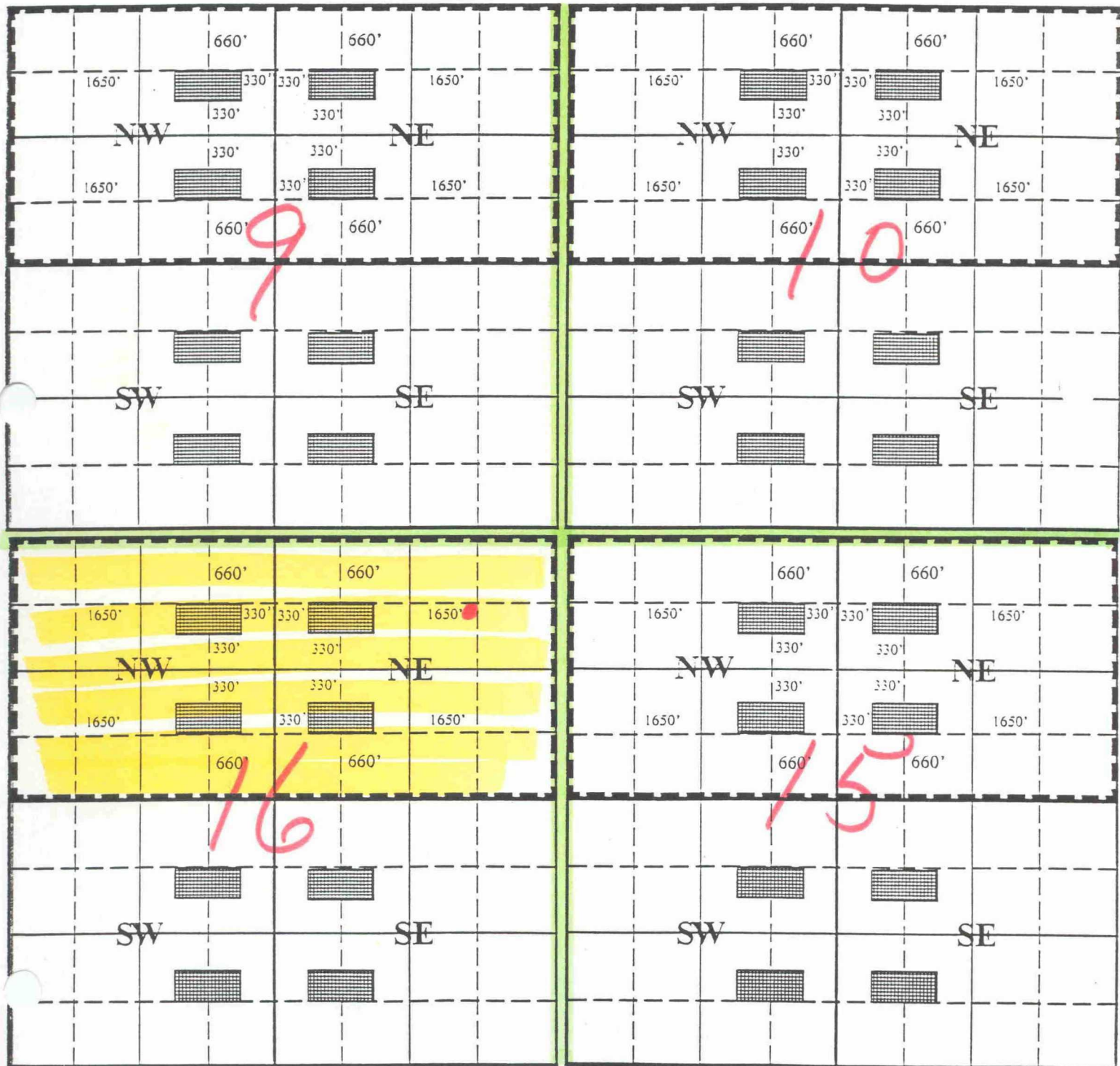
Delete (3) and (4)

Reason:

Eliminates the expense and burden of doing title searches for adjoining units in which there is no well.

Gives notice to those parties who will be adversely affected.

SOUTHEAST DEEP GAS
320-ACRE SPACING UNDER THE CURRENT RULES
104.B.(1)(a), 104.C.(2)(b)
One well limit.



(2) RULE 104.F Unorthodox Well Locations:

Current Rule:

"Affected Parties" are the following categories of parties in adjoining acreage towards whom the well encroaches: (See Illustration)

- (1) offset operators in adjoining spacing units;
- (2) in the absence of an offset operator, then lessees of adjoining leases;
- (3) in absence of operator or lessee then mineral owners

Proposed Change:

- (1) Adopts the concept of "existing adjoining spacing unit" and "prospective adjoining spacing unit"

(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.

- (2) For existing adjoining spacing unit, the affected parties are:

- (a) Division designated operator;
- (b) In event applicant is also the operator of the adjoining spacing unit then to all WIO in spacing unit:¹

- (3) For prospective adjoining spacing units:

- (a) all lessees of record and any unleased mineral owners of conveyance the existence of which is known to applicant or is of public record; and
- (b) in event spacing unit is a rectangle, then only to those in that portion of the adjoining units which consists of a square and is closest to the unorthodox well location.

¹ RPC of NMOGA is divided on this requirement. A number of committee members would delete this requirement.

Reason:

Eliminates the expense and burden of doing title searches for adjoining units in which there is no well. Solves the problem of notifying 3/4ths of the owners in an adjoining section with no producing well.

Gives notice to those parties who will be adversely affected.

Resolves the ambiguity and potential correlative rights violation of notice only to adjoining leases.

Clarifies notice is to Division designated operator of well in the same pool.

(3) RULE 303.F Downhole Commingling:

Current Rule:

Affected parties are:

- (1) all categories of owners in the spacing unit to be commingled provided there is a difference in identity or percentages; and
- (2) all offset operators.

Proposed Change:

Delete notice to offset operators

Reason:

offset operator's are not adversely affected

(4) HOW OBJECTIONS TO ADMINISTRATIVE APPLICATIONS ARE SET FOR HEARING

Current Procedure:

If an objection is timely filed, then the Division notifies applicant and (1) either puts on the docket and tells applicant to send new notices or (2) returns to applicant and tells applicant to refile for a hearing with new notices.

Proposed Change:

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 is required.

Reason:

Expedites the processing by avoiding the delay of sending new notices

(5) Change all Objection Periods to 20 days

(6) Rule 509-Discovery Allowables and Pool Creations:

Current Rule:

Provides for approval by the Division if there is no objection filed but fails to identify affected parties and fails to require applicant to send notice.

Proposed Change:

Requires notice to Division designated operators of all wells within one mile of discovery well.

Reason: fixes glitch in current rules and provides notice to only those parties affected.

(7) Rule 1207 Changes:

Note: Rule 1207 details the notice requirement for hearings. For those types of activities which have an optional administrative procedure, the notice rules have been modified to be the same: (DHC, NSL, NSP)

Note: The current rule does not separate general rule making from adjudication proceedings. The proposed changes do.

(a) Compulsory pooling and statutory unitization:

Current Rule:

Does not specify when an individual has acquired a sufficient interest in the property to be pooled so as to give that individual standing in this type of case.

Problem: Creates the opportunity by a party to be pooled to avoid, delay or circumvent the compulsory pooling statute by waiting until after a pooling case has been filed and to then convey to others or create burdens or contend it has partners or owners not of record.

Solution:

Clearly define when and how a party to be pooled shall be determined by adopting requirements similar to those found in real property litigation.

"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."

(b) Special Pool Rules:

Current Rule: Actual notice shall be given to all operators of wells and each unleased mineral owner within the existing or proposed pool boundaries and all operators of wells within 1 mile of such boundaries.

Problems:

(1) Current Rule fails to address the procedural due process ("notice issue") decision by the New Mexico Supreme Court in Uhdén Case (1991) which dealt with Amoco's change of size of a coal/gas spacing unit from 160-acres to 320-acres in the Cedar Hills Coal-Gas Pool.

(2) Any operator desiring to change any of the rules regulating a specific pool is required to notify all operators, working interest owners, royalty interest owners, overriding royalty interest owners. Dilemma: It is impossible to satisfy such a requirement. See amendment to Blanco Mesaverde Pool Rules, Order R-10987-A dated February 1, 1999.

Proposed Change:

(1) complies with Uhdén by specifying any increase or decrease in the size of a spacing unit for an existing producing well requires notice to all categories of owners.

(2) makes it feasible for an applicant to propose changes to special pool rules by providing notice only to operators.

SAN JUAN BASIN LOCATION MAP

