

IX. 107. D-H

Memorandum

To: Mike Stogner
CC: Chris Williams
From: Rick Foppiano
Date: 11/15/98
Re: Rule 104 Work Group Stuff

Mike, here is a "first pass" at what you asked me to do: review parts D & F of Rule 104 and suggest modifications. I went back through all my notes, including those from our last meeting of the Rule 104 Work Group. I even reviewed some suggested improvements that other companies gave me a while back when they heard we were working on this. The major changes are:

- Specifying the process for obtaining regulatory approval of additional wells, over and above those that are authorized by rule or order.
- "Tightening up" the requirements for NSL applications. Since the setbacks will be relaxed considerably under our proposal, it makes sense that encroachment should be allowed only when absolutely necessary, and the applicant cannot otherwise prevent the alleged waste or adequately protect his correlative rights by drilling at an orthodox location;
- Providing for notice to working interest owners in the "common operator" scenario for NSL permitting.
- Creating an alternative to direct notice to ALL affected parties when it would be unduly burdensome or expensive.

I ran into Chris Williams at the OCD seminar in Midland and he suggested that the Work Group would get together in early December. If so we should probably send this out, along with your suggested changes to the setbacks and infill portion of Rule 104, so the Work Group members can have a target to shoot at for the next meeting.

I have also included some other stuff that I created to get a better idea of the structure and substance of the rule as it is currently written. Since one of our priorities was to simplify Rule 104, I thought this might help in that regard.

Look forward to hearing your comments and thoughts about the attached material. I suggest we go ahead and pick a date for the Work Group to meet in December, because everyone's calendar is filling up.

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 with in 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]

- (a) Date of completion for a gas well shall be the date a wellhead is installed or 30 days following of the conclusion of active completion work on the well, whichever date comes first.

The old language was confusing, the changes correct this

- (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 to that for the standard spacing of an oil well. [No changes]
- (c) [No changes]

(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]

(a) [No Changes]

(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:

The phrase "without notice and hearing" should be removed and replaced with "after notice and opportunity for hearing." If I understand this section correctly, it speaks to applications for NSPU's that can be approved administratively, AFTER notice to the proper parties (described in the next section) and opportunity for a hearing if a protest is timely filed. The phrase, "without notice and hearing" really confuses the issue.

(i) [No changes]

(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 used by a common bordering side; and

(ii) [No changes]

(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;

What about applications for NSPU's other than those described in subsection (b)? Don't we need a catch-all section that allows any NSPU to be approved after notice and opportunity for hearing?

*Add to the end of subsection (c) above "**Affected parties in this instance shall be defined as:**" and then change this subsection (i) to read:*

- (i) **any royalty, leasehold or overriding interest owner** 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, **and**
- (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
- (iii) in the absence of an operator or lessee, then to all owners of record of unleased mineral interests.

Simplifying change, not substantive:

- (iii) in the absence of an operator, all lessees and unleased mineral interest owners 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.~~

- (ii)
- (d)

[No changes]

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

- (c)

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]

- (d) Director has received the application.
[No changes]

- (c) *[No changes]*

Assuming that 104.C. will contain language authorizing the drilling of a second well on the opposite quarter section for gas wells developed under 320 acre spacing, this should be changed to require infill drilling projects NOT authorized under 104.C. or special pool rules to be approved only after notice and opportunity for hearing:

(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]

(3) ~~Number of Wells Per Spacing Unit in Non-Prorated Gas Pools:~~
Exceptions to the number of wells allowed per spacing unit as provided unless otherwise permitted by statewide rule, or special pool rules or authorized shall be permitted only after notice and opportunity for hearing, only one (1) well per spacing unit is permitted in non-prorated pools. Notice shall be given to affected parties, who are defined for the purpose of this subsection only as:

(a) the designated operator of any adjoining spacing unit producing from the same pool(s);

(b) in the absence of an operator, all lessees and unleased mineral interest owners of record of any adjoining lease owning interests in the same pool(s).

104.F. 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]

[No changes]

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) (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 orthodoxy 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 orthodoxy location. [1-1-50... 2-1-96]

(1) [No changes]

This section should be revised to clarify that exceptions are granted only after proper notice and opportunity for hearing. Also, assuming that the interior setback will be changed to ten feet and the exterior setbacks changed from 1650 to 660 for deep gas, it makes sense that exceptions should only be granted when no other alternatives exist, and denial of the exception will cause waste or adversely impact someone's correlative rights. When this is spelled out, it really doesn't matter if the necessity for the exception is topographical, geological or whatever:

(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 to an orthodoxy or approved unorthodox location for such original horizon. [1-1-82... 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 **after** ~~without~~ notice and **opportunity for hearing** when **such exception is necessary to prevent waste or protect the correlative rights of the owners in the spacing unit and pool(s) for which the exception is sought. Evidence that the applicant cannot prevent such waste or adequately protect such correlative rights by drilling at an orthodoxy location shall be required before the exception is granted.**

(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 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 or lessees of record of any diagonal or adjoining lease owning interests in the same pool(s) as the proposed well; and

(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, an information evidencing the need for the exception. 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) [No change.]

Simplify the language describing affected parties, and add language to address the common operator situation (taken from Oklahoma's location exception rule):

(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 spacing unit producing from the same pool(s) as the proposed well;
- (ii) in the absence of an operator, all lessees and unleased mineral interest owners of record of any adjoining lease owning interests in the same pool(s).

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

~~(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.~~

~~(iii) If the operator is also the operator of any adjoining or diagonal spacing unit, each working interest owner of the well or wells located on such spacing unit that is producing from the same pool(s) as the proposed well.~~

(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 [2-1-96, 2-1-96]

(4) [No changes]

(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]

survey of ANY well, the last part of this subsection is not necessary:

(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).

Since the OTD already has the authority in Rule 111 to require a directional

104. __ [New Section]

The notice requirements for NSPU's and NSL's are inflexible. Sometimes the cost of identifying these parties can be unduly burdensome and expensive. Consequently, we need a process to allow for approval of these applications, once a proper showing has been made. Notice by publication and directly to those parties that can be identified should be allowed to satisfy the notice requirements in these rare instances.

104. [New section] When the notice requirements for exceptions under this rule are shown to be unduly burdensome or expensive, the Division may allow alternative notice, including but not limited to notice by publication and direct notice to affected parties that can be identified. When notice by publication has been allowed, it shall be in a newspaper of general circulation in the county or counties where the property is located.

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