

April 7, 1999

Ms. Lori Wrotenbery
Oil Conservation Commission
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: NMOGA Comments Proposed Changes to NMOCD Rule 104

Dear Ms. Wrotenbery:

NMOGA wishes to express its strong support for all but one of the suggested changes to Rule 104. These improvements will dramatically streamline existing regulatory processes. They also create new opportunities to increase the recovery of reserves, while protecting the correlative rights of interested parties. NMOGA's Regulatory Practices Committee, which is composed of many small and large producers in New Mexico, has discussed the proposed changes at length. Several of our members actively participated in the work group that deliberated on possible changes to Rule 104 during the last year and a half. Through these discussions, we have achieved a consensus position described in this letter. We have also enclosed our recommendation of how to amend Rule 104. Specifically, we support the following:

- Changing the end boundary setbacks for 320-acre deep gas wells in SE New Mexico from 1650 feet to 660 feet;
- Reducing the interior setbacks for 320-acre deep gas wells and 160-acre gas wells in SE New Mexico from 330 feet to 10 foot;
- Changing the setbacks on 160-acre gas wells in NW New Mexico from 790 feet to 660 feet; and
- Reorganizing Parts 104.B & 104.C into requirements for oil wells (Part B) and gas wells (Part C).

We also support the idea of an optional well on the opposite quarter section for 320-acre deep gas wells in Southeast New Mexico, provided the operator gives notice to offsetting operators and no protest is received. This "notice and opportunity for hearing" requirement should be a temporary measure, which the Commission would review in two years and change or eliminate based upon experience gained with this process.

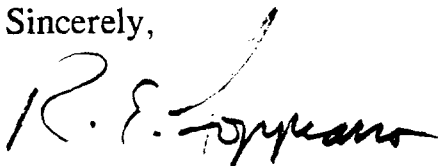
NMOGA further requests that the Commission rescind previous memos issued by Bill LeMay that set out strict limitations on when the Division will grant approval of an infill well in a non-prorated gas pool. By doing so, an applicant will still be required to demonstrate that the infill well is necessary either to prevent waste or protect correlative rights but will not be limited to only those unusual occasions when its spacing unit is being subject to drainage.

NMOGA also recommends that pools with special pool rules containing defined setback limitations (instead of referencing Rule 104) remain unchanged until the Commission docket a hearing to review these special pool rules after adoption of Rule 104 changes. Because some Rule 104 exceptions have been granted in the past that place a penalty on an operator's well production, continuation of these penalties might be unreasonable if the setback requirements in Rule 104 are changed. Accordingly, the Commission should provide an opportunity for any party adversely affected by such penalty to seek a review to determine if continuation of the penalty is still reasonable.

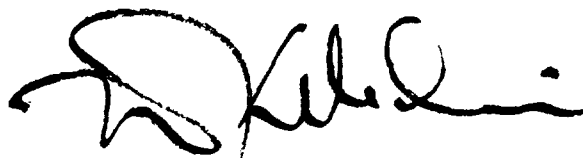
Because we do not see the necessity, NMOGA does not support the suggestion to change the setbacks on 40-acre oil wells from 330 feet to 220 feet at this time.

For your consideration, we are including with this letter proposed language changes for Rule 104. We thank you and Mike Stogner for your leadership on these important and far-reaching changes. NMOGA looks forward to participating in the upcoming Commission hearings on these proposed changes. If you have any questions please do not hesitate to call Rick Foppiano (713-215-7317) or Tom Kellahin (505-982-4285).

Sincerely,



Richard E. Foppiano
Co-Chairman, RPC



Tom Kellahin
Co-Chairman, RPC

REF:ref
Attachments

**NEW MEXICO OIL AND GAS ASSOCIATION
REGULATORY PRACTICES COMMITTEE**

**PROPOSED REVISIONS TO DIVISION RULE 104
April 7, 1999**

**RULE 104. - WELL SPACING: ACREAGE REQUIREMENTS
FOR DRILLING TRACTS**

A. (no changes proposed)

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 section or subdivision inner boundary. (For 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 lease overall dimension.) [5-26-64...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 and Sandoval Counties

- (a) ~~Shallow Wildcat Gas Wells. In San Juan, Rio Arriba, and Sandoval Counties, a wildcat well which is projected to a gas-producing horizon in a formation younger than the Dakota formations 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 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 790 feet to any outer boundary of the tract nor closer than 130 feet to any quarter-quarter section 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 Surveys, 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 formation (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 Surveys, 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 and Sandoval~~

~~(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 tract consisting of 160 surface contiguous acres 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 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 continuous 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 the Pennsylvanian gas or older formation which was created and defined by the Division prior to June 1, 1964, shall be located on a tract consisting of 160 surface continuous acres 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 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 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 in the Pennsylvanian gas or older formation which was created and defined by the Division after June 1, 1964, shall be located on a tract consisting of 320 surface continuous 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 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]

(3) San Juan, Rio Arriba and Sandoval 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 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 nor closer than 790 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.~~
- (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 surface contiguous 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 Surveys, and shall be located nor closer than 1200 feet to any outer boundary of such~~

~~tract nor closer than 130 feet to any quarter section or subdivision inner boundary 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 surface contiguous 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 Surveys, and shall be located nor closer than 790 feet to any outer boundary of such tract nor closer than 130 feet to any quarter section, 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 and Sandoval~~

- (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 nor 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.~~

104.B ACREAGE AND WELL LOCATION REQUIREMENTS FOR OIL WELLS

(1) Any wildcat well which is projected as an oil well to a formation and in an area that, in the opinion of the Division representative approving the application to drill, may reasonably be presumed to be productive of oil rather than gas, or, unless otherwise provided in special pool rules, each development well for a defined oil pool shall be located on a spacing unit 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 unit. Only those 40-acre spacing units committed to active secondary recovery projects shall be permitted more than four wells.

(2) 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 applicable 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. The Director may set an application for hearing.

104.C ACREAGE AND WELL LOCATION REQUIREMENTS FOR GAS WELLS:

Any wildcat well which is projected as a gas well to a formation and in an area that, in the opinion of the Division representative approving the application to drill, may reasonably be presumed to be productive of gas rather than oil, or, unless otherwise provided in special pool rules, each development well for a defined gas pool shall be spaced and located in accordance with the following:

(1) 640-ACRE SPACING: Shall apply to those deep gas wells in the San Juan Basin Area (Rio Arriba, San Juan, Sandoval and McKinley Counties), that are projected to a gas producing horizon or wells within a defined gas pool in a formation older than the Dakota formation (below the base of the Cretaceous period), which pool was created and defined by the Division after June 1, 1997, and located within the surface outcrop of the Pictured Cliffs formations (i.e. the "San Juan Basin") shall be located on a designated spacing unit 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 Surveys, and shall be located not closer than 1200 feet to any outer boundary of the spacing unit 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.

(2) 320-ACRE SPACING: Shall apply to deep gas wells in southeast New Mexico (Lea, Chaves, Eddy and Roosevelt Counties), defined as wells that are projected to a gas producing horizon or wells within a defined gas pool in the Wolfcamp and older formations shall be located on a spacing unit consisting of 320 surface continuous 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.

(a) The initial well on a 320-acre unit shall be located not closer than 660 feet to the outer boundary of the quarter section on which the well is located and not closer than 10 feet to any quarter-quarter section line or subdivision inner boundary.

(b) Only one infill well on a 320-acre unit shall be allowed provided that:

(i) it is located in the quarter section of the 320-acre unit not containing the initial well and shall be no closer than 660 feet to the outer boundary of the quarter section on which this infill well is located and not closer than 10 feet to any quarter-quarter section line or subdivision inner boundary; and

(ii) the operator shall submit an affidavit attached to its Application for Permit to Drill ("APD") attesting that operator sent notification of its proposed infill well, including a copy of its APD and a copy of the plat described in Rule 104.F(5), by certified mail (return receipt) to all affected parties advising them that objections to this infill well must be filed in writing with the operator within 20 days from the date notice was sent and that the operator has received no such objections. The Division District Supervisor may approve the APD for the infill well upon receipt of waivers from all affected parties or upon receipt of the operator's affidavit that no affected parties has objected to the infill well within the 20 day objection period. In the event of an objection, the applicant may file for a hearing of this matter before a Division Examiner with notice to affected parties.

(iii) An affected party is defined as the Division designated operator of any spacing unit producing from the same pool(s) as the proposed infill well and which adjoins the 160-acre portion of the 320-acre spacing unit containing the proposed infill well.

(c) The Division designated operator for the infill well shall be the same operator as designated by the Division for the initial well.

(3) 160-ACRE SPACING: Shall apply to all other gas wells not covered by the above described provisions, and shall include: (i) shallow gas wells in southeast New Mexico (defined as wells that are projected to a gas producing horizon or wells within a defined gas pool in a formation younger than the Wolfcamp formation); (ii) shallow gas wells in the San Juan Basin Area (defined as wells that are either projected to a gas-bearing horizon in a formation younger than the Dakota formations or in a gas pool in a formation younger than the Dakota formation which was created and defined by the Division after March 1, 1997); and (iii) those deep gas wells in the San Juan Basin Area (defined as those wells that are located outside of the surface outcrop of the Pictured Cliffs formations); and are to be located in a designated spacing unit 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, with wells to be located not closer than 660 feet to any outer boundary of such unit nor closer than 10 feet to any quarter-quarter section or subdivision inner boundary.