

OIL AND GAS COMMISSION

SUBJECT: Rule B-1; Application to Drill a Production Well

DESCRIPTION: This amendment states that setting conductor pipe may be done prior to obtaining a permit to drill. A permit to drill will be required before commencement of drilling a wellbore to the depth to set the requisite amount of surface casing.

PUBLIC COMMENT: Public hearings were held in Ft. Smith, Arkansas, on April 17, 2012, and in El Dorado, Arkansas, on April 23, 2012. The public comment period ended on May 8, 2012. The following comments were received:

Jim Freeze (Allen Rathole, Inc.)

Comment: Allen Rathole, Inc. initially petitioned the AOGC to amend the rule as proposed. Mr. Freeze told the Commissioners that the last amendment to General Rule B-1, which implemented the requirement to obtain a drilling permit prior to setting conductor pipe was harmful to his business, and creates an unsafe work environment for himself and his employees.

Response: Commissioners initiated amendment process and approved final language of the rule to address issues raised by Mr. Freeze.

Shawn Porter (Parthenon, AR), Cindy Feinberg (Little Rock, AR), and Margie Parker (Greenbrier, AR):

Comment #1: The current definition for "drilling" should remain as is and no operator should be allowed to commence drilling without a permit. The Commission needs to be aware of when dirt is moved in the wellbore as the process needs to be regulated and that a permit must be required before setting of conductor pipe.

Response: AOGC agrees that a permit is to be in place before the operator of a well commences drilling operations. Due to amendments to General Rule B-17, and Arkansas Pollution Control and Ecology Commission Regulation 34, the AOGC now receives a notice from operators prior to construction of a drilling pit. As drilling pits are constructed prior to drilling a well, the AOGC now receives notice of operations earlier in the process than it was receiving when General Rule B-1 was amended to impose the requirement that a permit be obtained prior to the setting of conductor pipe.

Comment #2: Object to the removal of "spud" as a defined word. The removal of the definition will result in varied interpretations of the term which will lead Lessors into court to argue over the definition and whether a lease is in fact held.

Response: AOGC states that while the term "spud" itself is removed in the rule as amended, its meaning is not. The term "drill" as amended incorporates the definition of "spud," and as such, its substance is not lost. The term, as relating to contracts between lessors and lessees where the AOGC is not a party thereto, is not a matter to which the AOGC has regulatory authority and not subject to this rule.

Fran Alexander (Fayetteville, AR)

Comment #1: Ms. Alexander states that the terms currently defined in the rule should remain as is for the benefit of the public and its clearer understanding.

Response: AOGC states that while the term "spud" itself is removed in the rule as amended, its meaning is not. The term "drill" as amended incorporates the definition of "spud," and as such, its substance is not lost. The term, as relating to contracts between lessors and lessees where the AOGC is not a party thereto, is not a matter to which the AOGC has regulatory authority and not subject to this rule.

Comment #2: Ms. Alexander states that operators should not be allowed to commence drilling without a permit and that the Commission needs to be aware of all steps of the process.

Response: AOGC agrees that a permit is to be in place before the operator of a well commences drilling operations. Due to amendments to General Rule B-17, and Arkansas Pollution Control and Ecology Commission Regulation 34, the AOGC now receives a notice from operators prior to construction of a drilling pit. As drilling pits are constructed prior to drilling a well, the AOGC now receives notice of operations earlier in the process than it was receiving when General Rule B-1 was amended to impose the requirement that a permit be obtained prior to the setting of conductor pipe.

The proposed effective date is August 12, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is only a de minimis impact or cost to the parties subject to the rule. There is no cost to the commission to implement the proposed rule.

LEGAL AUTHORIZATION: Arkansas Code Ann. § 15-71-110 authorizes the Oil and Gas Commission to make reasonable rules as necessary.

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RULE B-1 - APPLICATION TO DRILL A PRODUCTION WELL

a) Definitions:

- 1) "Production Well" means a well drilled, deepened, or re-entered after plugging, for the exploration or production of oil and/or gas or brine; or a well drilled, deepened or re-entered after plugging for a water supply for use in connection with an enhanced oil recovery project.
- 2) "Deepen" for a cased well means an operation whereby a well is drilled to a measured depth below the cement casing shoe. For an open hole completion, "Deepen" means an operation whereby a well is drilled below the original measured depth of the well.
- 3) "Drill" means the commencement of ~~an operation to either set conductor pipe or the moving in a drilling rig capable of drilling to a depth to set the requisite amount of surface casing and spudding the well, if conductor pipe is not used a wellbore to a depth to set the requisite amount of surface casing.~~
- 4) "Permit Holder" means the person to whom the permit is issued and is responsible for all regulatory requirements relative to the production well.
- 5) "Re-enter" means an operation whereby access to a previously plugged wellbore is re-established for any purpose including replugging.
- 6) ~~"Spud" means the commencement of drilling a wellbore to a depth to set the requisite amount of surface casing.~~

b) Permit Application Procedures for a Permit to Drill, Deepen or Re-enter a Production Well

- 1) No person shall drill, deepen, or re-enter a plugged production well, without a permit. A copy of the permit shall be posted on site prior to ~~a well being spud or~~ the commencement of drilling, deepening or re-entering operations.
- 2) The Permit Holder is required to provide notice to the surface owner in accordance with Ark Code Ann. § 15-72-203.
- 3) The Permit Holder shall notify the appropriate Commission Regional Office by telephone, or other approved method, a minimum of twenty-four (24) hours prior to ~~a well being spud or~~ the commencement of drilling, deepening or re-entering operations. Commission staff may conduct site inspections as deemed necessary.
- 4) No production well may be drilled at a surface location other than that specified on the permit, except that if a Permit Holder has commenced drilling operations and the production well is lost due to adverse drilling conditions prior to surface casing being set, the Permit Holder may request an amendment of the permit without a fee for the new location, provided the production well remains on the

same surface owners' property where the production well was originally permitted. The Director may approve the commencement of drilling operations prior to the filing of an amended permit. Movement of the production well location off the original surface owners' property, or after surface casing has been set, requires the filing of a new permit application, along with a new permit fee and plat. Drilling may not commence prior to the issuance of a new permit.

- 5) Application for a permit to drill, deepen or re-enter a plugged production well shall be made on forms prescribed by the Director. The application shall be executed under penalties of perjury, accompanied by a non-refundable permit fee of \$300.00; and the permit shall not be issued until any required financial assurance in accordance with General Rule B-2 is submitted and approved.
- 6) If the application does not contain all of the required information or required documents, the Director, or his designee, shall notify the applicant in writing. The notification shall specify the additional information or documents necessary for an evaluation of the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are received within sixty (60) days following the date of mailing or personal delivery of the notification.
- 7) Permits shall automatically expire six (6) months from the date of issuance, unless commencement of the drilling, deepening or re-entry of plugged production well operations authorized by the permit has occurred, which are to be continued with due diligence, but not to exceed 1 year from the date of commencement of the drilling, deepening or re-entry of plugged production well operations authorized by the permit, at which time the production well shall be plugged or a new permit application, along with a new permit fee and plat, must be filed.
- 8) Permits for the drilling, deepening or re-entry of plugged production well are not transferable prior to the completion of drilling operations and the setting of surface casing. A new permit application, along with a new permit fee and plat must be filed.
- 9) The permit application to drill, deepen or re-enter a plugged production well shall include at a minimum:
 - A) The proposed name of the production well.
 - B) The surveyed location and ground elevation of the production well. A survey is not required for a deepened production well, or a re-entered plugged production well, if the original production well location was surveyed and shown on the original production well permit application. If the application is for a horizontal production well, the surface location and proposed bottom hole location of the lateral portion of the horizontal production well shall be shown. If applicable, a Form 25 must be submitted for horizontal production wells where the costs and production are to be shared between drilling units in accordance with General Rule B-43 or B-44, or a Form 5 must be submitted for a location exception in accordance with General Rule B-40.

C) A plat showing:

- i) The exact location of the production well proposed to be drilled, deepened or re-entered; an outline of the proposed drilling unit and/or leasehold, whichever is applicable, unless the production well is a wildcat well; and the distance from the production well to the nearest section lines, drilling unit lines and or lease lines, whichever is applicable; and
- ii) If the production well is located within a controlled oil or gas field, the plat shall also include the location of all producing wells completed or producing within the same common source of supply in the drilling unit and/or leasehold.

D) The name of the proposed drilling contractor.

E) The proposed depth of the production well, and the name of the deepest geologic formation to be tested.

10) The application for a permit to drill, deepen or re-enter a plugged production well shall be signed by a person authorized to sign for such owner as specified on the Organizational Report filed in accordance with General Rule B-13.

11) The applicant must be authorized to do business in the State of Arkansas, and by filing an application, the applicant irrevocably waives, to the fullest extent permitted by law, any objection to a hearing before the Commission.

12) If the applicant satisfies the requirements of all applicable statutes and this Rule, a permit shall be issued, and in no circumstances be unduly withheld, unless:

A) The applicant has falsified or otherwise misstated any material information on or relative to the permit application;

B) No further permits or authorities may be issued in accordance with General Rule A-5.

c) Production Well Drilling Permit Revocation Procedures

1) The Director may revoke a production well drilling permit if the Permit Holder fails to meet permit conditions as specified in the production well drilling permit, the production well permit was issued in error, or the Permit Holder falsified or otherwise misstated any material information in the application form.

2) The Director shall notify the Permit Holder of the production well drilling permit in writing. Following the revocation notice the Permit Holder is required to plug the production well. The Permit holder shall have thirty (30) days from the date of the production well drilling permit to appeal the Director's Decision to revoke the production well drilling permit in accordance with General Rule A-2, A-3, and other applicable hearing procedures. Drilling or production may not commence or continue during the appeal process. A revocation of a production

well drilling permit for which an appeal has not been filed, shall become a final administrative decision of the Commission thirty (30) days following the date of the revocation.

ARKANSAS OIL AND GAS COMMISSION

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NOTICE OF RULE CHANGE Request for Public Comment

The Arkansas Oil and Gas Commission (AOGC), has proposed amendments to Commission General Rule B-1 "Application to Drill a Production Well." Oral and written comments by industry representatives and the public will be received and made a part of the record during the public comment period.

Pursuant to the Arkansas Administrative Procedures Arkansas Code § 25-15-201 et Seq.; and Oil and Gas Statues A.C.A. § 15-71-110 the AOGC by this notice solicits comments of any interested party to the proposed rule amendments by submitting comments in writing on or before the end of the public comment period which is May 8, 2012. Comments should be sent to Lawrence Bengal at the address below.

Full and complete copies of the proposed general rules are available for inspection and review at the Commission offices in El Dorado, Arkansas at 2215 West Hillsboro Avenue, Phone: 870-862-4965; Fort Smith, Arkansas at 3309 Phoenix Avenue, Phone: 479-646-6611; and in Little Rock, Arkansas at 301 Natural Resources Drive, Suite 102, Phone: 501-683-5814; or may be viewed on AOGC's website at <http://www.aogc.state.ar.us>

Public hearings will be held at AOGC's Fort Smith office on April 17, 2012 at 1:00 p.m. and at AOGC's El Dorado office on April 23, 2012 at 1:00 p.m.

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