

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A)
PERMANENT RULEMAKING OF)
THE OKLAHOMA CORPORATION) CAUSE NO. RM 201700008
COMMISSION AMENDING OAC)
165:5, RULES OF PRACTICE)

ADOPTED EMERGENCY RULES

August 22, 2017

TITLE 165. CORPORATION COMMISSION

CHAPTER 5. RULES OF PRACTICE

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CORPORATION COMMISSION
OF OKLAHOMA

SUBCHAPTER 7. COMMENCEMENT OF A CAUSE

PART 3. OIL AND GAS

165:5-7-6. Drilling and spacing unit establishment or modification

(a) Notice of hearing relating to drilling and spacing units shall be published one time at least fifteen (15) days prior to the hearing in a newspaper of general circulation published in Oklahoma County, Oklahoma, and in a newspaper of general circulation published in each county in which lands embraced in the application are located.

(b) When an applicant proposes to establish, vacate, alter, modify, amend, or extend a drilling and spacing unit, the application and notice shall be served by the applicant no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon each person or governmental entity having the right to participate in production from the proposed drilling and spacing unit or the existing drilling and spacing unit.

(c) A plat or plats shall be attached to each application for an order to establish a drilling and spacing unit or units or to extend existing spacing within a common source or sources of supply, which plat shall show the spacing units requested together with any spacing units abutting or overlapping the area to be spaced, and any abutting spacing units in all spaced formations. An amended plat shall be provided at the time of the hearing in the event drilling and spacing units have been established after the application was filed and prior to the hearing to reflect the status of the spacing at the time of the hearing.

(d) An application to extend spacing from an adjacent drilling and spacing unit shall state in the body of the application the order number that created the spacing in the adjacent unit that applies to the common sources of supply which are sought to be extended by the application. Such request to extend spacing and citation to such order number shall be placed in the special relief paragraph of the notice of hearing.

(e) Where a well has not been commenced to or completed in the common source of supply sought to be spaced, notice of hearing for an order to vacate, alter, amend, extend, or change a prior spacing order shall be served and published as required in (a) of this Section. Such request to vacate, alter, amend, extend, or change a prior spacing order shall be placed in the special relief paragraph of the notice of hearing.

(f) Where two or more orders have issued spacing a common source of supply and such spacing orders have resulted in there being a conflict either as to the size of the unit or as to a common source of supply or a conflict as to the nomenclature of the common source of supply, then the applicant seeking to vacate, alter, amend, or change one of the prior spacing orders shall either file an application to construe and modify the conflicting orders or may amend a relevant application to accomplish the same result. Notice of hearing shall be served and published as required upon the commencement of a proceeding.

(g) The Commission may issue an order establishing horizontal well units for a common source of supply. A horizontal well unit may be established for a common source of supply for which there are already established non-horizontal drilling and spacing units, and said horizontal well unit may include within the boundaries thereof more than one existing non-horizontal drilling and spacing unit for the common source of supply. Upon

the formation of a horizontal well unit that includes within the boundaries thereof one or more non-horizontal drilling and spacing units, the Commission shall provide that such horizontal well unit exists concurrently with one or more of such non-horizontal drilling and spacing units, and each such unit may be concurrently developed. Notwithstanding the foregoing, the Commission may vacate any non-horizontal drilling and spacing unit upon a proper showing of a change of conditions or change in knowledge of conditions to justify such vacation or deletion, and any such request to vacate or delete any such non-horizontal drilling and spacing unit may be included in and made a part of any application to form one or more horizontal well units.

(1) In any spacing proceeding to establish or form a horizontal well unit, the application filed in such proceeding shall set forth and describe any non-horizontal drilling and spacing unit that exists concurrently with such horizontal well unit, including the well or wells located in any such non-horizontal drilling and spacing unit.

(2) The order entered in such proceeding shall describe any non-horizontal drilling and spacing unit that exists concurrently with the horizontal well unit, including the well or wells located in such non-horizontal drilling and spacing unit. The order establishing or forming a horizontal well unit that exists concurrently with any non-horizontal drilling and spacing unit shall state, based on the evidence presented, that the consent in writing required by subsection (h) of this Section has been obtained and filed or that a waiver of such consent requirement as authorized by subsection (i) of this Section has been granted by the Commission.

(h) No order of the Commission authorizing a horizontal well unit that overlies any existing well, or portion of any existing drilling and spacing unit with any existing well, producing from the same common source of supply shall be entered until:

(1) at least fifty percent (50%) of the ownership having a right to drill in each such well and drilling and spacing unit consents in writing to the formation of such horizontal well unit and such written consent or consents are filed with the Court Clerk of the Commission in the applicable spacing proceeding or otherwise entered into the record in such proceeding; or

(2) such consent is waived by the Commission. Provided, however, in the event any such order is entered by the Commission without the written consent required above or a waiver of such consent, any horizontal well unit purported to be formed by such order for which such consent is required shall not be effective until such consent is filed with the Court Clerk of the Commission in such spacing proceeding or is otherwise entered into the record of such proceeding or such consent is waived by the Commission. Requests for such consent must be sent by restricted mail to the owners having the right to drill in any existing well and/or drilling and spacing unit producing from the same common source of supply as the proposed horizontal well unit. In addition, if the boundaries of the horizontal well unit do not encompass such existing drilling and spacing unit in its entirety, then the application and notice for the horizontal well unit shall be served by the applicant no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon each person or governmental entity having the right to participate in production from the existing drilling and spacing unit.

(i) Any written consent to the order required under subsection (h) of this Section shall not be a waiver of, nor commitment of, any rights of such owners in either the existing production or the proposed horizontal well unit. If the required percentage of consent cannot be obtained, the applicant may make application to the Commission for a waiver of the consent requirement, and upon a showing of good cause by the applicant, the Commission may waive the consent requirement. For purposes of this subsection, a showing of good cause means applicant must present sufficient testimony and evidence, and the Commission must find in the order, that applicant has established the following:

- (1) Due diligence was exercised to locate each owner having a right to drill in any existing well and/or any existing drilling and spacing unit producing from the same common source of supply as the proposed horizontal well unit;
- (2) A bona fide effort was made to obtain the required percentage of consent;
- (3) Alternate methods of development are inadequate to prevent waste and to protect correlative rights unless the consent requirement is waived and the proposed horizontal well unit created; and
- (4) Any correlative rights or vested rights, or both, of owners in the existing well(s) and/or drilling and spacing unit(s), and in the proposed horizontal well unit, will be adequately protected if the consent requirement is waived and the proposed horizontal well unit created.

(j) If a horizontal well unit formed under subsection (g) of this Section is determined to exist concurrently with any previously formed non-horizontal drilling and spacing unit, or any portion thereof, the order forming such horizontal well unit shall provide that each concurrently existing unit may be separately developed in that a well may be drilled into, completed in, and produce hydrocarbons from the same common source(s) of supply in each such concurrently existing unit, with production from such well to be governed by and allocated pursuant to the applicable unit. If a unit is determined to exist concurrently with another unit and is subject to a prior pooling order, which is in full force and effect, the rights relinquished by a non-participating owner which became vested under such prior pooling order in the same common source(s) of supply shall be treated and recognized as vested rights in any subsequent pooling proceeding covering such other unit. An owner, who participated as a working interest owner under an existing pooling order covering a unit that exists concurrently with another unit, need not participate or continue to participate as a working interest owner under any other pooling order covering such other unit in order to continue to participate as a working interest owner under such existing pooling order; provided, however, if such owner does not participate as a working interest owner under such other pooling order, such owner shall relinquish its rights to participate in any well drilled under or otherwise covered by such other pooling order.

(k) Any spacing order entered by the Commission pursuant to 52 O.S. § 87.1(f) which forms a horizontal well unit or units that exceed six hundred forty (640) acres plus tolerances and variances as allowed by statute shall provide that the contemplated lateral length of the initial horizontal well drilled in any such horizontal well unit formed by such order shall be at least seven thousand five hundred (7,500) feet. Such spacing order shall further provide that upon the initial horizontal well drilled under such spacing order reaching its total depth, an affidavit shall be filed in the spacing proceeding in

which such order is entered setting forth the lateral length of such initial horizontal well in any horizontal well unit formed by such order.

165:5-7-6.1. Horizontal well unitization for ~~shale~~targeted reservoirs

(a) The application, and the notice of hearing on the application, for an order creating a horizontal well unitization for a ~~shale~~targeted reservoir pursuant to 52 O.S. §87.9 shall be served no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon:

(1) Each person or governmental entity having the right to share in production from the proposed unitization covered by the application; and

(2) The operator, as shown by the records of the Commission, of each well that is commencing to or currently producing from the ~~shale~~targeted reservoir in any unit or any separate tract of land for which no unit has been formed for such ~~shale~~targeted reservoir adjoining, cornering or adjacent to the proposed unitization.

(b) If the applicant is the operator of a well commencing to or currently producing from the ~~shale~~targeted reservoir in a unit or a separate tract of land for which no unit has been formed for such ~~shale~~targeted reservoir adjoining, cornering or adjacent to the proposed unitization, notice of hearing shall be served by the applicant no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon each owner, as shown by the records of the operator, with a working interest in such well in the ~~shale~~targeted reservoir.

(c) Notice of hearing regarding an application for an order creating a horizontal well unitization for a ~~shale~~targeted reservoir pursuant to 52 O.S. §87.9 shall be published as provided in OAC 165:5-7-1(n)(2).

(d) The application for an order creating a horizontal well unitization for a ~~shale~~targeted reservoir shall contain the following:

(1) The legal description of the lands covered.

(2) The names and addresses of the applicant and proposed operator or operators of the proposed unitization.

(3) Allegations concerning the existence of facts relating to the proposed unitization as provided in 52 O.S. §87.9(B).

(4) A map or plat showing the governmental sections included within the proposed unitization and the location of proposed horizontal well(s) to be drilled for the recovery of oil and gas from the ~~shale~~targeted reservoir. If applicable, the map or plat should show the location of all other wells, including abandoned and drilling wells and dry holes, within the ~~shale~~targeted reservoir.

(5) The name and depth of each ~~shale~~targeted reservoir to be affected, including any potential ~~associated~~adjacent common source of supply.

(6) A log of a representative well completed in the ~~shale~~targeted reservoir which is the subject of the application.

(7) A plan of development of the area included within the proposed unitization as provided in 52 O.S. §87.6(B)(11) and 52 O.S. §87.9(E). The plan of development must also address the conditions upon which the unit shall terminate.

(8) Reference to any companion application, identified by the type of requested relief, such as any application for location exception, for pooling, or for any other relief that may be appropriate under the specific facts of a cause, if such companion application

is filed in conjunction with or is pending at the time of the filing of the application for horizontal well unitization.

(e) Each application for an order creating a horizontal well unitization for a ~~sha~~targeted reservoir shall be limited to two (2) governmental sections, although the size of the unitization may be expanded by including additional governmental sections up to a maximum unit size of four (4) governmental sections for good cause shown pursuant to 52 O.S. §87.9(C).

(f) An order approving an application for a horizontal well unitization for a ~~sha~~targeted reservoir shall include the elements identified in 52 O.S. §87.9(F) and other applicable portions of 52 O.S. §87.9.

(g) Any pooling application filed pursuant to 52 O.S. §87.9(I) regarding a horizontal well unitization for a ~~sha~~targeted reservoir shall be filed pursuant to OAC 165:5-7-7.

165:5-7-6.2. Multiunit horizontal wells in targeted reservoirs

(a) The application, and the notice of hearing on the application, for an order approving a multiunit horizontal well in a targeted reservoir pursuant to 52 O.S. §87.8 shall be served no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon each person or governmental entity having the right to share in production from each of the affected units covered by the application.

(b) Notice of hearing regarding an application for an order approving a multiunit horizontal well in a targeted reservoir pursuant to 52 O.S. §87.8 shall be published as provided in OAC 165:5-7-1(n)(2).

(c) The application for an order approving a multiunit horizontal well in a targeted reservoir shall contain the following:

(1) The legal description of the affected units.

(2) The name and address of the applicant and proposed operator of the proposed well.

(3) The name and depth of each targeted reservoir to be affected, including any potential ~~associated~~adjacent common source of supply.

(4) The information required by 52 O.S. §87.8(B)(4).

(5) Allegations concerning the existence of facts relating to the proposed well as provided in 52 O.S. §87.8(B)(6).

(6) Reference to any companion application, identified by the type of requested relief, such as any application for spacing, for location exception, for increased density, for pooling, for modification of any previous pooling order, or for any other relief that may be appropriate under the specific facts of a cause, if such companion application is filed in conjunction with or is pending at the time of the filing of the application for multiunit horizontal well(s).

(d) An order approving an application for a multiunit horizontal well in a targeted reservoir shall require the allocation of the reasonable drilling, completion and production costs and of the commingled production and proceeds in accordance with 52 O.S. §87.8(B) and the map(s) addressed in 52 O.S. §87.8(B)(4)(b) must be attached to the order.

(e) Any pooling application filed pursuant to 52 O.S. §87.8(B)(3) involving a multiunit horizontal well for a targeted reservoir shall be filed pursuant to OAC 165:5-7-7.

(f) In the event a multiunit horizontal well covered by 52 O.S. § 87.8 is intended to be the initial unit well in any horizontal well unit that exceeds six hundred forty (640) acres plus tolerances and variances allowed by statute, the contemplated completion interval of such well shall exceed ten thousand five hundred sixty (10,560) feet, absent a showing of reasonable cause.

165:5-7-7. Pooling

(a) Each pooling application shall include a statement by the applicant that the applicant exercised due diligence to locate each respondent and that a bona fide effort was made to reach an agreement with each such respondent as to how the unit would be developed. The applicant shall present evidence to this effect at the time of hearing.

(b) Notice of hearing for a pooling order, together with the application, shall be served by the applicant no less than fifteen (15) days prior to the date of the hearing, by restricted mail, upon each respondent.

(c) Notice of hearing for a pooling order shall be published pursuant to 165:5-7-1(n)(2).

(d) An Authorization for Expenditure (AFE) which was prepared or revised within forty-five (45) days of the date of the hearing at which it is offered into evidence shall be submitted at the hearing. An AFE for a horizontal well drilled pursuant to 52 O.S. §§ 87.1(f), 87.8, or 87.9 shall provide well cost estimates for the total footage of the proposed well. If the well is a multiunit horizontal well drilled pursuant to 52 O.S. § 87.8, the costs listed in the AFE should be allocated in the pooling order according to the allocation factor assigned to each of the subject drilling and spacing units in the applicable multiunit horizontal well order.

(e) If the applicant anticipates that some other owner of the right to drill may be designated as the operator of the unit well, the body of the application and notice shall so state. In the notice, the request that the applicant or some other owner may be designated operator shall be placed in the special relief paragraph.

(f) No pooling order shall be extended in time except upon the same notice as provided for in the initial application. Such request shall be in the form of a motion filed under the original CD number of the pooling.

(g) Notice of hearing for a redetermination of well costs shall be as provided in the initial application. Such request shall be in the form of a motion filed under the original CD number of the pooling.