COLORADO
Oil & Gas Conservation Commission
Department of Natural Resources

1120 Lincoln Street, Suite 801
Denver, CO 80203

"Clean-up Rulemaking"
COGCC Responses from Stakeholders

I -- 303.b.(3) (p. 300-4)

Comments

Some industry members commented that they have interpreted "production facility" to be the entire area where any production facility equipment is located. These industry members calculate whether a location is within a Designated Setback Location by measuring from the center of the area in which production facilities are located, rather than measuring from the nearest single piece of production equipment to the nearest Building Unit. These members commented that measuring from the edge of the nearest piece of production equipment rather than the center of the entire production facility area could result in substantial changes in the distance calculated to the nearest Building Unit.

Staff Response

The intent Rule 303.b.(3) is to ensure the distance separating any piece of production equipment from the nearest Building Unit or surrounding cultural features is accurately measured and that appropriate Designated Setback Location requirements, including best management practices, notifications, and comment periods, are triggered. The industry interpretation described above has the potential to substantially undermine the purpose of the Rule. Measuring from the center of a large area of production equipment could easily result in storage tanks, separators, or other production equipment being located within the Buffer Zone Setback or Exception Zone Setback (i.e. within 1,000 feet or 500 feet of a Building Unit, respectively), but would allow the operator to avoid implementing Rule 604.c mitigation measures and providing the notices and comment opportunities required under Rules 305 and 306. The attached real world illustration demonstrates how easily this could occur.

The agency has been implementing the Rule as intended during the Setback rulemaking – to ensure any piece of production equipment located within a Designated Buffer Zone triggers appropriate requirements – since the setback rules became effective on August 1, 2013. The Form 2A was updated to clearly state that measurement should be made from the "edge of nearest production facility." Thus, the change from "center of" to "edge of" a production facility will result in an inconsequential change in distance. Additionally, any other measuring point would be challenging to verify in the field, because rangefinders provide data from edge to edge. Most importantly, this proposed change will ensure the intent of the Rule is met.

COGCC staff will move forward with the following changes:

- Change the definition of "Production Facilities" to "Production Facility" and have it read "shall mean any permanent equipment used for storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, or other equipment directly associated with oil wells, gas wells, or injection wells."
- Change 303.b.(3) to add "…the edge of the…"
- Change the definition of "Designated Setback Location" to add "…the edge of the…" in the last sentence right before Production Facility.

II – 308A.b (p. 300-21)

Comments

Industry supports the proposed changes to Rule 308A.b. There is minor concern over the requirement to submit a core analysis with the completion report because core analyses often take longer than 60 days to complete.

Staff Response

COGCC staff recommends the following change to the Rule in response to the comment: "If drill stem tests or directional surveys are run, they shall be submitted with this completion report. If a core analysis is run it shall be submitted with the completion report if available; if the core analysis is not available when the completion report is submitted the operator shall note this on the Form 5 and provide a copy of the analysis on a Sundry Notice, Form 4, as soon as it is available."

III – Deviated Drilling Plan (303.b, 308A, 321)

Comments

Industry wants to verify that consistent wording changes will be made in all three of the referenced Rules.

Staff Response

COGCC staff has confirmed the proposed language in these three sections is consistent.

IV – 308B (p. 300-22)

Comments

Industry requested clarification on when a "formation is completed," which triggers the 30-day clock for submitting a completion report.

Staff Response

The definition of "completion" in the 100-Series Rules establishes when a formation is completed. Staff will include an explanatory comment to this effect in the Statement of Basis and Purpose.

V – 318A.e.(5)A (p. 300-41)

Comments

Industry commented that only working interest owners are entitled to notice under Rule 318A.e.(5)A. and, therefore, the defined term "Owner" (initial capitalization) should be used rather than lower case "owner."

Staff Response

COGCC Staff will make this change and will look for other instances of this throughout all of 318A.

VI – 317c (p. 300-27)

Comments

Industry has concerns about the efficacy of requiring a Form 2A to be on site when no standing equipment is on site, and given that different contractors will be working on site at different times. They also question whether requiring the Form 2A to be on-site will improve compliance. They also are concerned with potential enforcement for not having the Form 2A on site even where all BMPs and COAs were performed appropriately.

Staff Response

COGCC staff recognizes the concerns from industry and will remove the suggested changes and revert back to the old language.

VII – 318A.o (p. 300-47)

Comments

Industry is concerned about requiring an interwell distance between an abandoned well and with the requirement to obtain a waiver from the operator of abandoned offset well. Additionally, Industry would like clarification that this Rule only applies to the horizontal lateral and not the entire wellbore.

Staff Response

COGCC staff will remove the word "abandoned" from the proposed changes. Additionally, COGCC staff confirms that both the current and proposed changes to the Rule apply only to the horizontal lateral aspect of the well and no other aspects.

VIII – 303.b.(3).D (p. 300-5)

Comments

Industry has concerns that requiring pipeline markers and fencing to be depicted on a location drawing could require additional surveying, unless only approximate locations for these features are required.

Staff Response

COGCC staff confirms that pipeline markers and fencing locations can be an approximate on the location drawing and will change the wording from "and pipeline markers" to "or pipeline markers" per COGA's recommendation.

IX – 305h (p. 300-14)

Comments

Industry suggests that "well" be changed to "wells" to ensure that a single move-in rig-up notice can be done for a pad of wells. Also, they requested the proposed Rule explicitly state that receipt of the move-in rig-up notice does not confer "standing" on persons not otherwise entitled to comment on a new well.

Staff Response

COGCC Staff will change "well" to "wells". COGCC include an explanatory comment in the Statement of Basis and Purpose to clarify that receipt of the MIRU notice does not confer a right to comment on persons who are not otherwise entitled to comment.

X – 326 (p. 300-59)

Comments

Industry requests clarification on the following requirements:

1. The addition of retesting if a packer is moved from an injection well.
2. Clarification as to why "shut-in" wells was changed to "inactive" wells.

3. Clarification whether the six month period to successfully complete a mechanical integrity test extends the requisite period (two years or five years) in which to perform the MIT.

Staff Response

COGCC staff provides agrees that the wording as proposed was confusing and rewrote the section. The purpose of the change is to directly state that MITs are required for temporarily abandoned wells.

XI – 327 (p. 300-61)

Comments

Industry questioned whether an increase in mud weight of more than 0.3 pounds per gallon to regain control is the appropriate trigger to define a "significant" well control event. Industry will review technical data related to mud weight requirements and provide a recommended alternative.

Staff Response

COGCC staff agrees with the concept of changing the number to a percentage as proposed by COGA. However, the 10% is too high based on past experience in the Piceance basin and the COGCC will recommend 4%.

XII – 503.d. (p. 500-3)

Comments

Industry questioned whether the addition of "complete" before application clarifies this Rule, and questioned how "completeness" will be determined and by whom.

Staff Response

COGCC staff will strike the proposed revision to Rule 503.d.

XIII – 506.a. (p. 500-4)

Comments

Industry expressed concern regarding elimination of one automatic continuance of any unprotested matter upon request by the applicant three or more days prior to a scheduled hearing. ("The Secretary shall grant the first request by an applicant for continuance of any matter three business days before the scheduled hearing provided a protest has not been filed.").

Staff Response

The changes to this Rule are designed to give COGCC staff greater discretion in granting continuances to the benefit of all parties. However, staff will leave the provision allowing one automatic continuance for unprotested matters in the Rule.

XIV – 507.a. (pp. 500-4, 5)

Comments

Industry is concerned that changing the language of this Rule from "the Commission shall *cause* notice to be given" to "the Commission shall *require* notice to be given" shifts the burden of providing notice from the Commission to the operator. Under current practice, industry is responsible for sending and publishing notices, this practice is the result of industry's agreement to accept this responsibility. Moreover, COGCC staff reviews and and approves all notices, which the Secretary signs, before they are sent or published. Industry also expressed concern with the length of time required for staff review of draft notices provided by industry.

Staff Response

COGCC staff understands Industry's concern regarding the review and approval turnaround time, and will continue its efforts to streamline the process. Staff will continue to investigate options to simplify the notification process, including an eForm application submission process and automated generation of notices. However, because the word "require" does not significantly alter current implementation of the Rule, but merely makes it more clear, the proposed language will remain a part of the clean-up rulemaking.

XV – 511.c. (p. 500-13)

Comments

Some members of industry expressed concern that requiring the 511 testimony 21-days prior to the hearing, instead of the day following the protest deadline, will give protestors an unfair advantage in having the materials earlier. Other industry members pointed out the arguments in favor of the proposed change: having the materials earlier will allow a potential protestor to make an informed decision not to protest and protestors have had difficulty obtaining these materials even after the protest deadline.

Staff Response

COGCC staff proposed this change due to the current time constraints for staff to effectively examine the 511 materials for technical and legal sufficiency. This timing issue has led to an

increase in continuances as the number of applications has grown. Staff will consider policies to keep the information internal until the protest deadline has past.

XVI – 602.b (p. 600-1)

Comments

Industry sought clarification on the requirements to report certain accidents to the Director, and suggested that timely notice to the Director be required rather than a "report."

Staff Response

COGCC staff proposes the following revisions:

"Unsafe and potentially dangerous conditions should be reported immediately by employees to their supervisor and remedied as soon as practical. An operator shall notify the Director as soon as practicable, but in no event later than 24 hours after the accident, of any accident involving a fire, explosion, detonation, release of pressure, significant damage to equipment or the well site, or injury to a member of the general public which requires medical treatment . An Accident Report, Form 22, shall be submitted to the Director within 10 days of the accident."

XVII – 605.a.(3) and 605.b.(5) (pp. 600-11, 600-12)

Comments

Industry sought clarification on the proposed change from "building unit" to "building" for the 200 foot tank setback in Rules 605.a.(3) and 605.b.(5); and the use of term "residences" in 605.b.(5).

Staff Response

The lowercase "building" term includes any building, and is intentionally distinguished from the defined term "Building Unit." The referenced Rules are safety setbacks and require tanks and fired vessels to be 200 feet away from *any* building. The term "residences" will be struck from Rule 605.b.(5).