

BEFORE THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF CHANGES TO THE RULES)	CAUSE NO. 1R
OF PRACTICE AND PROCEDURE OF THE OIL &)	
GAS CONSERVATION COMMISSION OF THE)	DOCKET NO. 1108-RM-02
STATE OF COLORADO)	

NOTICE OF RULEMAKING HEARING

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

The Oil and Gas Conservation Commission, on its own motion, will consider amendments to Rule 318A of the Commission's Rules of Practice and Procedure, 2 CCR 404-1 ("Rules") generally to permit greater flexibility in the creation of wellbore spacing units for the purposes of drilling horizontal and infill wells in the Greater Wattenberg Area (GWA).

The current Rule 318A generally: 1) authorizes comingling of hydrocarbon resources of Cretaceous age formations to the base of the Dakota Formation; 2) allows defined drilling locations (GWA Windows) to be used to drill wells; 3) establishes procedures for adaptive (wellbore) spacing units; 4) provides for the location of interior infill and boundary wells; and 5) limits the number of producing completions to eight per 160-acre governmental section. Rule 318A was last modified to provide for additional infill and boundary wells in a defined area within the GWA. Since the last amendment, market demand has driven even more intensive development. This has encouraged the use of new technologies and practices that permit even greater resource recovery in the GWA, which would be further facilitated by amendment of Rule 318A.

The proposed amendments to Rule 318A: 1) define "Horizontal Well" for purposes of the amendments; 2) permit wellbore spacing units to be smaller than 160 acres; 3) permit flexible horizontal wellbore spacing sizes such that a horizontal wellbore spacing unit may include any quarter-quarter sections within 460 feet of the lateral wellbore in the producing formation; 4) remove the infill well area geographic restriction of 318A.e., to allow infill wells throughout the Greater Wattenberg Area (GWA); 5) extend the current water well sampling requirement of 318A e. (4) to the entire GWA; 6) establish notice and hearing procedures specific to the amendments, including establishing a process to inform mineral owners of the intent of an operator to create a new unit and drill a new well, requiring the notice recipient to respond within 30 days with any objection to the proposal, and establishing a 90 day period for the operator to apply for a permit to drill or have the unit definition expire; 7) eliminate an effectiveness review of the GWA infill provisions that was required by previous amendment; 8) eliminate the restriction on the number of wellbore completions per quarter section, and thus eliminate the requirement that any increase in the number of completions beyond eight requires Commission approval; and 9) require an operator filing a Oil and Gas Location Assessment, Form 2A, to file a waste management plan in accordance with Rule 907.a.

The proposed amendments are intended to reduce need for routine well location exception applications filed with and approved by the Commission. Such applications have increased significantly in recent months, due to ongoing oil and gas development activities in the GWA. The proposed amendments are intended to establish rules of general application across the GWA that will facilitate responsible, balanced oil and gas development in the GWA, with appropriate protections for surface owners and the environment.

The proposed amendments read as follows:

318A. GREATER WATTENBERG AREA SPECIAL WELL LOCATION, SPACING AND UNIT DESIGNATION RULE

a. GWA, GWA wells, GWA windows and unit designations. The Greater Wattenberg Area ("GWA") is defined to include those lands from and including Townships 2 South to 7 North and Ranges 61 West to 69 West, 6th P.M. In the GWA, operators may utilize the following described surface drilling locations ("GWA windows") to drill, twin, deepen, or recomplete a well ("GWA well") and to commingle any or all of the Cretaceous Age formations from the base of the Dakota Formation to the surface:

- (1) A square with sides four hundred (400) feet in length, the center of which is the center of any governmental quarter-quarter section ("400' window"); and,

(2) A square with sides eight hundred (800) feet in length, the center of which is the center of any governmental quarter section ("800' window").

(3) Absent a showing of good cause, which shall include the existence of a surface use or other agreement with the surface owner authorizing a surface well location outside of a GWA window, all surface well sites shall be located within a GWA window.

(4) Unit designations.

A. 400' window. When completing a GWA well in a 400' window to a spaced formation, the operator shall designate drilling and spacing units in accordance with existing spacing orders.

B. 800' window. When completing a GWA well in an 800' window, whether in spaced or unspaced formations, the operator shall: (i) designate drilling and spacing units in accordance with existing spacing orders where units are not smaller than a governmental quarter section; or (ii) form a voluntary drilling and spacing unit consisting of a governmental quarter section; or (iii) where designating a drilling and spacing unit smaller than a governmental quarter section, secure waiver(s) from the operator or from the mineral owners (if the operator is also the holder of the mineral lease) of the lands in the governmental quarter section that are not to be included in the spacing unit; or (iv) apply to the Commission to form an alternate unit or to respace the area.

C. Unspaced areas and wellbore spacing units. When completing a GWA well to an unspaced formation, the operator shall designate a drilling and spacing unit not smaller than a governmental quarter-quarter section if such well is proposed to be located greater than four hundred sixty (460) feet from the quarter-quarter section boundary in which it is located. If a well is proposed to be located less than four hundred sixty (460) feet from the governmental quarter-quarter section boundary, a wellbore spacing unit ("wellbore spacing unit") for such well shall be comprised of ~~the four (4)~~ **THE governmental quarter-quarter sections nearest to the THAT ARE LOCATED LESS THAN FOUR HUNDRED SIXTY (460) FEET FROM THE** wellbore regardless of section or quarter section lines.

D. HORIZONTAL GWA WELL. A HORIZONTAL WELLBORE SPACING UNIT SHALL BE DESIGNATED BY THE OPERATOR FOR EACH PROPOSED HORIZONTAL WELL. THE HORIZONTAL WELLBORE SPACING UNIT MAY BE OF DIFFERENT SIZES AND CONFIGURATIONS DEPENDING ON LATERAL LENGTH AND ORIENTATION BUT SHALL BE COMPRISED OF THE GOVERNMENTAL QUARTER-QUARTER SECTIONS IN WHICH THE WELLBORE LATERAL PENETRATES THE PRODUCTIVE FORMATION AS WELL AS ANY GOVERNMENTAL QUARTER-QUARTER SECTIONS THAT ARE LOCATED LESS THAN 460 FEET FROM THE PORTION OF THE WELLBORE LATERAL THAT PENETRATES THE PRODUCTIVE ZONE REGARDLESS OF SECTION OR QUARTER SECTION LINES. HOWEVER, IF THE HORIZONTAL COMPONENT OF THE HORIZONTAL WELLBORE IS LOCATED ENTIRELY WITHIN A GWA WINDOW, THE OPERATOR SHALL DESIGNATE A DRILLING AND SPACING UNIT IN ACCORDANCE WITH SUBSECTIONS A.(4)A. AND A.(4)B. OF THIS RULE. A WELLBORE SPACING UNIT MAY OVERLAP PORTIONS OF ANOTHER WELLBORE SPACING UNIT DESIGNATED FOR A DIFFERENT HORIZONTAL WELL OR VERTICAL WELL. GWA HORIZONTAL WELLS AND HORIZONTAL WELLBORE SPACING UNITS SHALL BE SUBJECT TO THE NOTICE AND HEARING PROCEDURES AS PROVIDED FOR IN 318A.E.(6).

b. Recompletion/commingling of existing wells. Any GWA well in existence prior to the effective date of this rule, which is not located as described above, may also be utilized for deepening to or recompletion in any Cretaceous Age formation and for the commingling of production therefrom.

c. Surface locations. Prior to the approval of any Application for Permit-to-Drill submitted for a GWA well, the proposed surface well location shall be reviewed in accordance with the following criteria:

(1) A new surface well location shall be approved in accordance with Commission rules when it is less than fifty (50) feet from an existing surface well location.

(2) When the operator is requesting a surface well location greater than fifty (50) feet from a well (unless safety or mechanical considerations of the well to be twinned or topographical or surface constraints justify a location greater than fifty (50) feet), the operator shall provide a consent to the exception signed by the surface owner on which the well is proposed to be located in order for the Director to approve the well location administratively.

(3) If there is no well located within a GWA window but there is an approved exception location well located outside of a GWA window that is attributed to such window, the provisions of subsections (1) and (2) of this subsection c. shall be applicable to such location.

d. Prior wells excepted. This rule does not alter the size or configuration of drilling units for GWA wells in existence prior to the effective date of this rule. Where deemed necessary by an operator for purposes of allocating production, such operator may allocate production to any drilling and spacing unit with respect to a particular Cretaceous Age formation consistent with the provisions of this rule.

e. GWA infill. ~~This subsection applies to the following area of the GWA: Township 1 North, Ranges 66 West through 68 West; Township 1 North, Range 69 West: E½; Township 2 North, Ranges 64 West through 68 West; Township 2 North, Range 69 West: E½; Township 3 North, Ranges 64 West through 67 West; Township 4 North, Ranges 63 through 67 West; Township 5 North, Ranges 63 West through 67 West; Township 6 North, Ranges 63 West through 66 West, 6th P.M.~~

(1) Interior infill wells. Additional bottom hole locations for the "J" Sand, Codell and Niobrara Formations are hereby established greater than four hundred sixty (460) feet from the outer boundary of any existing 320-acre drilling and spacing unit ("interior infill wells"). Pursuant to the well location provisions of subsection a., above, interior infill well locations shall be reached by utilizing directional drilling techniques from the GWA windows

A. If a bottom hole location for an interior infill well is proposed to be located less than four hundred sixty (460) feet from the outer boundary of an existing drilling and spacing unit, a wellbore spacing unit as defined in a.(4)C., above, shall be designated by the operator for such well.

B. If a bottom hole location for an interior infill well is proposed to be located greater than four hundred sixty (460) feet from an existing 80-acre or existing 320-acre drilling and spacing unit, the spacing unit for such well shall conform to the existing 80-acre or existing 320-acre drilling and spacing unit.

(2) Boundary wells. Additional bottom hole locations for the "J" Sand, Codell and Niobrara Formations are hereby established less than four hundred sixty (460) feet from the outer boundary of a 320-acre governmental half section or from the outer boundary of any existing 320-acre drilling and spacing unit ("boundary wells"). A wellbore spacing unit as defined in a.(4)C., above, shall be designated by the operator for such well.

(3) Additional producing formations. An operator wanting to complete an interior infill well or boundary well in a formation other than the "J" Sand, Codell, or Niobrara Formations ("additional producing formation") must request an exception location prior to completing the additional producing formation. The spacing unit dedicated to the exception location shall comply with subsections (1) or (2), above, as appropriate.

(4) Water well sampling. The Director shall require initial baseline testing prior to the first ~~interior infill well or boundary well ("proposed GWA infill well")~~ drilled-PROPOSED within a governmental section. The following shall be used as guidance for the Director in establishing initial baseline testing:

A. Within the governmental quarter section of the proposed GWA infill well, the closest water well ("water quality testing well") completed in the Laramie/Fox Hills Aquifer shall be sampled.

B. If no Laramie/Fox Hills water wells are located within the governmental quarter section, then the deepest representative water quality testing well within the governmental quarter section of the proposed ~~GWA-infill~~ well shall be sampled.

C. If no water wells are located within the governmental quarter section, a water quality testing well (preferably completed in the Laramie/Fox Hills Aquifer) within one-half ($\frac{1}{2}$) mile of the proposed ~~GWA-infill~~ well shall be selected.

D. If there are no water quality testing wells that meet the foregoing criteria, then initial baseline testing shall not be required.

E. Initial baseline testing shall include laboratory analysis of all major cations and anions, total dissolved solids, iron and manganese, nutrients (nitrates, nitrites, selenium), dissolved methane, pH, and specific conductance.

F. If free gas or a methane concentration level greater than 2 mg/l is detected in a water quality testing well, compositional analysis shall be performed to determine gas type (thermogenic, biogenic or an intermediate mix of both). If the testing results reveal biogenic gas, no further isotopic testing shall be required. If the testing results reveal thermogenic gas, carbon isotopic analyses of methane carbon shall be conducted. The Director may require further water well sampling at any time as a result of the laboratory results or in response to complaints from water well owners.

G. Copies of all test results described above shall be provided to the Director and the landowner where the water quality testing well is located within three (3) months of collecting the samples used for the test. Laboratory results shall also be submitted to the Director in an electronic format.

(5) Existing production facilities. To the extent reasonably practicable, operators shall utilize existing roads, pipelines, tank batteries and related surface facilities for all interior infill wells and boundary wells.

(6) Notice and hearing procedures. For proposed boundary wells, wellbore spacing units, and additional producing formations provided by this subsection e., **AND FOR PROPOSED HORIZONTAL WELLS AND HORIZONTAL WELLBORE SPACING UNITS AS PROVIDED BY 318A.A.(4)D.**, the following process shall apply:

A. Notice shall be given by certified mail by the operator of a proposed boundary well, ~~or~~ wellbore spacing unit, **HORIZONTAL WELL OR HORIZONTAL WELLBORE SPACING UNIT** to all owners in the proposed wellbore spacing unit. Notice shall be given by certified mail by the operator of a proposed additional producing formation to all owners in cornering and contiguous spacing units of the requested completion and the proposed spacing unit; if the additional producing formation is unspaced only the owner in the proposed spacing unit needs to be notified. **NOTICE FOR A BOUNDARY WELL, WELLBORE SPACING UNIT, HORIZONTAL WELL OR HORIZONTAL WELLBORE SPACING UNIT SHALL INCLUDE A DESCRIPTION OF THE WELLBORE ORIENTATION, THE ANTICIPATED SPUD DATE, THE SIZE AND SHAPE OF THE PROPOSED WELLBORE SPACING UNIT (WITH DEPICTION ATTACHED), THE PROPOSED SURFACE AND BOTTOMHOLE LOCATIONS, IDENTIFIED BY FOOTAGE DESCRIPTIONS, AND THE SURVEY PLAT. FOR PROPOSED HORIZONTAL WELLS AND HORIZONTAL WELLBORE SPACING UNITS, THE OPERATOR SHALL ALSO IDENTIFY BY FOOTAGE DESCRIPTIONS, THE LOCATION AT WHICH THE WELLBORE PENETRATES THE TARGET FORMATION.**

B. Each owner shall have a ~~twenty (20)~~ **THIRTY (30)** day period after receipt of such notice to object in writing to the operator. ~~to such well location, proposed spacing unit, or additional producing formation. If a timely objection is received, the matter shall be set on the docket at the next available Commission hearing. Absent receipt of an objection by the operator from an owner within such twenty (20) day period, the Director may administratively approve the boundary well, wellbore spacing unit, or additional producing formation, provided that it does not exceed eight (8) producing completions in the "J" Sand, Codell or Niobrara Formations in the 160-acre governmental quarter section as set forth in subsection f. below. A location plat evidencing the well location,~~

~~wellbore spacing unit, or additional producing formation and applicable spacing unit shall be submitted to the Director together with copies of any surface waivers and a certification that no timely objections were received. An Application for Permit to Drill, Form 2, specifically identifying that a boundary well, a wellbore spacing unit, or an additional producing formation is proposed, shall also be filed with the Director in accordance with Rule 303.~~ **THE WRITTEN OBJECTION MUST BE BASED UPON A CLAIM THAT THE NOTICE PROVIDED BY THE OPERATOR DOES NOT COMPLY WITH THE INFORMATIONAL REQUIREMENTS OF SUBSECTION A ABOVE AND/OR A TECHNICAL OBJECTION THAT EITHER WASTE WILL BE CAUSED, CORRELATIVE RIGHTS WILL BE ADVERSELY AFFECTED, OR THAT OPERATOR IS NOT AN "OWNER", AS DEFINED IN THE ACT, OF THE MINERAL ESTATE(S) THROUGH WHICH THE WELLBORE PENETRATES WITHIN THE TARGET FORMATION. SPECIFIC FACTS MUST FORM THE BASIS FOR SUCH OBJECTION. THE OBJECTING PARTY SHALL PROVIDE A COPY OF THE WRITTEN OBJECTION TO THE DIRECTOR.**

C. IF AN OBJECTION PURSUANT TO SUBSECTION B IS TIMELY RECEIVED, THE OPERATOR MAY SEEK A HEARING BEFORE THE COMMISSION ON THE OBJECTION. THE OBJECTING PARTY WILL BEAR THE BURDEN OF PROVING THAT THE NOTICE PROVIDED BY THE OPERATOR DOES NOT COMPLY WITH THE INFORMATIONAL REQUIREMENTS OF SUBSECTION A ABOVE, THAT THE OPERATOR IS NOT AN OWNER, AS DEFINED BY THE ACT, AND/OR THE APPROVAL OF THE BOUNDARY WELL LOCATION, WELLBORE SPACING UNIT, HORIZONTAL WELL, HORIZONTAL WELLBORE SPACING UNIT OR ADDITIONAL PRODUCING FORMATION WOULD EITHER CREATE WASTE OR ADVERSELY AFFECT THE OBJECTING PARTY'S CORRELATIVE RIGHTS. THE OBJECTION MAY BE FIRST PRESENTED TO THE HEARING OFFICER OF THE COMMISSION AND SUCH HEARING OFFICER, BASED ON THE FACTS, MAY RECOMMEND TO THE COMMISSION THAT SUCH OBJECTION SHALL STAND OR BE DISMISSED.

D. IF THE OBJECTION STANDS, THE COMMISSION MAY EITHER ENTER AN ORDER APPROVING OR DENYING THE PROPOSED BOUNDARY WELL LOCATION, WELLBORE SPACING UNIT, HORIZONTAL WELL LOCATION, HORIZONTAL WELLBORE SPACING UNIT OR ADDITIONAL PRODUCING FORMATION, WITH OR WITHOUT CONDITIONS. SUCH CONDITIONS MAY BE REQUISITES FOR THE APPLICATION FOR PERMIT-TO-DRILL, FORM 2, IF OPERATOR CHOOSES TO PROCEED WITH AN APPLICATION FOR PERMIT-TO-DRILL, FORM 2, RELATIVE TO THE PROPOSED BOUNDARY WELL, WELLBORE SPACING UNIT, HORIZONTAL WELL, HORIZONTAL WELLBORE SPACING UNIT OR ADDITIONAL PRODUCING FORMATION.. IF THE OBJECTION IS DISMISSED, THE OPERATOR SHALL TREAT THE OBJECTION AS WITHDRAWN AND OTHERWISE PROCEED UNDER SUBSECTION E BELOW.

E. ABSENT RECEIPT OF A TIMELY OBJECTION PURSUANT TO SUBSECTIONS A AND B ABOVE, THE DIRECTOR MAY ADMINISTRATIVELY APPROVE THE BOUNDARY WELL, WELLBORE SPACING UNIT, HORIZONTAL WELL, HORIZONTAL WELLBORE SPACING UNIT OR ADDITIONAL PRODUCING FORMATION. A LOCATION PLAT EVIDENCING THE WELL LOCATION, WELLBORE SPACING UNIT, OR ADDITIONAL PRODUCING FORMATION AND APPLICABLE SPACING UNIT SHALL BE SUBMITTED TO THE DIRECTOR TOGETHER WITH COPIES OF ANY SURFACE WAIVERS AND A CERTIFICATION THAT NO TIMELY OBJECTIONS WERE RECEIVED. AN APPLICATION FOR PERMIT-TO-DRILL, FORM 2, SPECIFICALLY IDENTIFYING THAT A BOUNDARY WELL, A WELLBORE SPACING UNIT, HORIZONTAL WELL, HORIZONTAL WELLBORE SPACING UNIT, OR AN ADDITIONAL PRODUCING FORMATION IS PROPOSED, SHALL ALSO BE FILED WITH THE DIRECTOR IN ACCORDANCE WITH RULE 303 WITHIN NINETY (90) DAYS OF THE EXPIRATION OF THE ~~TWENTY~~ (20) THIRTY (30) DAY NOTICE PERIOD OR SUCH NOTICE SHALL BE DEEMED WITHDRAWN. SHOULD SUCH NOTICE BE WITHDRAWN OR BE DEEMED WITHDRAWN, THE PROPOSING OPERATOR SHALL NOT SUBMIT ANOTHER NOTICE FOR THE SAME WELL OR WELLBORE SPACING UNIT WITHIN FORTY-FIVE (45) DAYS OF THE DATE THE ORIGINAL NOTICE IS WITHDRAWN OR DEEMED WITHDRAWN.

~~(7) The Commission shall review the effectiveness of this subsection e. no later than March 1, 2008 and may require operators to submit data related to infill drilling performed under this subsection.~~

f. **Limit on locations.** This rule does not limit the number of formations that may be completed in any GWA drilling and spacing unit nor, subject to subsection c., above, does it limit the number of wells that may be located within the GWA windows. ~~However, absent Commission order otherwise, there shall be no more than eight (8) producing completions in the "J" Sand, Godell or Niobrara Formations in any 160-acre governmental quarter section.~~

g. **GWA water sampling.** The Director may apply appropriate drilling permit conditions to require water well sampling near any proposed GWA wells in accordance with the guidelines set forth in subsection e.(4), above.

h. WASTE MANAGEMENT. IN CONJUNCTION WITH FILING AN OIL AND GAS LOCATION ASSESSMENT, FORM 2A, THE OPERATOR SHALL INCLUDE A WASTE MANAGEMENT PLAN MEETING THE GENERAL REQUIREMENTS OF RULE 907.A.

h.i. **Exception locations.** The provisions of Rule 318.c. respecting exception locations shall be applicable to GWA wells, however, absent timely objection, boundary wells, wellbore spacing units, and additional producing formations shall be administratively approved as provided in subsection e.(6) above.

h.j. **Correlative rights.** This rule shall not serve to bar the granting of relief to owners who file an application alleging abuse of their correlative rights to the extent that such owners can demonstrate that their opportunity to produce Cretaceous Age formations from the drilling locations herein authorized does not provide an equal opportunity to obtain their just and equitable share of oil and gas from such formations.

h.k. **Supersedes orders and policy.** Subject to paragraph d. above, this rule supersedes all prior Commission drilling and spacing orders affecting well location and density requirements of GWA wells and supersedes and replaces the "Policy on Staff Administrative Application of the Greater Wattenberg Area Well Location Rule 318A.," dated April 26, 1999.

h.l. The landowner notice provision for the owner(s) of surface property within five hundred (500) feet of the proposed oil and gas location under Rule 305.e shall not apply to any such locations that are subject to the provisions of this subsection 318A.

NOTICE IS HEREBY GIVEN, that the Oil and Gas Conservation Commission of the State of Colorado, pursuant to the above, has scheduled the above-entitled matter for hearing on:

Date: Monday, August 8, 2011
Tuesday, August 9, 2011

Time: 9:00 a.m.

Place: Suite 801, The Chancery Building
1120 Lincoln Street
Denver, Colorado 80203

The Commission has statutory authority to conduct rulemaking pursuant to section 34-60-105 C.R.S. (the power to make and enforce rules, regulations, and orders pursuant to this article, and to do whatever may reasonably be necessary to carry out the provisions of the Oil and Gas Conservation Act) and has specific authority to promulgate these rules under section 34-60-106 (2)(d) C.R.S., (the Commission has the authority to regulate oil and gas operations so as to prevent and mitigate significant adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations to the extent necessary to protect public health, safety, and welfare, including protection of the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility).

The Commission may take actions, including without limitation, modifying or amending the existing rules described or proposed herein and making conforming modifications to other rules, which it determines are reasonably necessary.

In accordance with the Americans with Disabilities Act, if any party requires special accommodations as a result of a disability for this hearing, please contact Margaret Humecki at (303) 894-2100 ext. 5139, prior to the hearing and arrangements will be made.

Copies of the current Rules are available on the Commission internet homepage at <http://www.cogcc.state.co.us>. The reasons and authority for the proposed amendments are set forth in the Proposed Statement of Basis, Specific Statutory Authority, available at the Commission internet homepage at <http://www.cogcc.state.co.us> and clicking on the link Proposed Amendments to Rule 318A, under PUBLIC ANNOUNCEMENTS.

Any written comments on the proposed rule changes to be considered are requested to be submitted by July 22, 2011 for more complete consideration by the Commission. Opportunity for testimony from any interested party will be provided at the hearing, however, the time to present testimony may be limited, and parties sharing similar viewpoints are requested to appoint a spokesperson to present their testimony at the hearing.

The Commission will enter its order adopting such rules based on the record made at the hearing and any continuation of the hearing.

IN THE NAME OF THE STATE OF COLORADO

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By


Robert A. Willis, Acting Secretary

Dated at Suite 801
1120 Lincoln Street
Denver, Colorado 80203
June 30, 2011

Submit written comments to:
Colorado Oil & Gas Conservation Commission
Attn. Robert A. Willis
Docket No. 1108-RM-02
1120 Lincoln Street, Suite 801
Denver, Colorado 80203

**DEPARTMENT OF NATURAL RESOURCES
OIL AND GAS CONSERVATION COMMISSION
AMENDMENTS TO 100 SERIES - DEFINITIONS AND 300 SERIES - DRILLING,
DEVELOPMENT, PRODUCTION AND ABANDONMENT
2 CCR 404-1**

Statement of Basis, Specific Statutory Authority, and Purpose

Amendments to Current Rules of the Colorado Oil and Gas Conservation Commission, 2 CCR 404-1, Amending Rule 318A, and Defining Horizontal Well for Purposes of the Rule Amendments.

This statement sets forth the basis, specific statutory authority, and purpose for the amendments to Rule 318A. of the Rules and Regulations and Rules of Practice and Procedure ("Rules") promulgated by the Colorado Oil and Gas Conservation Commission ("Commission" or "COGCC") on August 8 and 9, 2011.

Statutory Authority

These amendments to Rule 318A. are based on: 1) general Commission jurisdiction and rulemaking authority granted in section 34-60-105 (1) C.R.S; and 2) specific statutory authority of section 34-60-106 (2)(a), (c),and (d) C.R.S. The Commission adopted the following statement of basis and purpose consistent with section 24-4-103(4), C.R.S., of the Administrative Procedure Act. This statement is hereby incorporated by reference in the rules adopted.

The rulemaking for these amendments to Rule 318A was held by the Commission on August 8, 2011. These amendments become effective twenty days after published in the *Colorado Register*

Basis and Purpose

INTRODUCTION

Since the initial Wattenberg Field discovery in 1970, oil and gas development has continued to increase, with significant ancillary economic benefits. Rule 318A was initially adopted in April 1998, and last modified in 2005. The rule, also referred to as The Greater Wattenberg Area (GWA) Rule, was initiated to facilitate location of wells, and operator access to all Cretaceous age formations, without need to routinely secure Commission approval. Statewide setback rules of Rule 318.a. were becoming increasingly too restrictive, and an unnecessary impediment to reasonable development of the hydrocarbon resources of the GWA. The Rule was driven by intense interest in hydrocarbon development in the GWA, the complex nature of the tight sands of the GWA, and the need to mitigate conflicts between mineral rights developer and surface owners with predictable and reasonably protective rules.

The GWA Rule generally: 1) authorizes comingling of hydrocarbon resources of Cretaceous age formations to the base of the Dakota Formation; 2) allows defined drilling locations (GWA Windows) to be used to drill wells; 3) establishes procedures for adaptive (wellbore) spacing units; 4) provides for the location of interior infill and boundary wells; and 5) limits the number of producing completions to eight per 160-acre governmental section. Rule 318A was last modified to provide for additional infill and boundary wells in a defined area within the GWA. Since the last amendment, market demand has driven even more intensive development. This has encouraged the use of new technologies and practices that permit even greater resource recovery in the GWA, which would be further facilitated by this amendment of Rule 318A.

GWA operators find themselves seeking Commission approval for well location exceptions with increasing frequency. Recent months have seen a significant increase in hearing applications, and this trend is expected to continue without modification of Rule 318A. The proposed rule amendments are expected to eliminate the bulk of the well location exception requests and implement additional environmental reporting requirements without increasing the number of well sites unless a surface owner consents to the additional well site. These proposed amendments were developed with industry input and discussed with Weld County officials and representatives of homebuilder and environmental groups.

The following discussion identifies proposed amendments and explains the substance of and rationale behind the proposed amendments.

IDENTIFICATION AND EXPLANATION OF AMENDMENTS

1. Definition of "Horizontal Well" (100 Series Definitions). One of the drivers for recent requested well location exceptions is horizontal drilling in the Niobrara Formation. The Niobrara Formation in the GWA has been drilled since the early 1980's, and the GWA is an ideal location for horizontal drilling. The proposed amendments require a definition of "Horizontal Well". The definition is self explanatory.

2. Reduced Minimum Size Spacing Units (318A a. (4) (C)). This amendment allows wellbore spacing units to be smaller than 160 acres. The wellbore spacing unit commonly referred to as a "roving 160", has worked well, but there are occasions where it does not. These situations occur in unspaced areas, where the spacing unit may be central to two quarter-quarter sections but not to four. In these cases it makes sense to size the wellbore spacing unit at 80 acres and not 160 acres. This amendment would address this situation.

3. Flexible Horizontal Wellbore Spacing Sizes (318A a. (4) (D)). This amendment allows a horizontal wellbore spacing unit to include any quarter-quarter sections within 460 feet of the lateral wellbore in the producing formation. This will result in irregular unit boundaries along the edges of the included quarter-quarter sections along the length of the wellbore, but would allow for a more equitable sharing of oil and gas revenues by mineral interest owners, when compared to requiring the unit to be an entire section. Each horizontal well would have its own unique unit.

4. Increased Area Allowed for Infill Wells (318A e). This amendment removes the infill well area geographic restriction of 318A.e., and allows infill wells throughout the GWA. New completion techniques have made hydrocarbon resources throughout the GWA attractive targets, that were not considered economic six years ago. Additionally, removing this geographic constraint allows the drilling of horizontal wells between GWA windows, without requiring Commission approved exceptions. This amendment also makes the rules uniform over the entire GWA, providing for simpler administration and easier understanding by owners and operators.

5. Water Well Sampling (318A e. (4)). By eliminating the special area of 318A.e with amendment 4 above, the entire GWA area is covered by the water well sampling requirement. The intent with this amendment is to get a water well sample in every section within the GWA based on a requirement for the test with the next proposed well in the section, regardless of its drainage area.

6. Notice and Hearing Procedures (318A e. (6)). This amendment covers notice and hearing procedures for wells utilizing the wellbore spacing unit concept. Because this concept creates units across original traditional units established by early spacing orders, each well would have different mineral owners. This amendment establishes the process to inform mineral owners of the intent of an operator to create the new unit and drill a new well. The idea is to provide operators a simple method to create a wellbore spacing unit and only utilize the Commission adjudicatory process when the parties cannot agree on terms. The notification consists of a letter sent to the mineral owners in the proposed unit describing the operation and the affected lands. This notice requires the recipient to object to the proposal within 30 days or the assumption will be that there is no objection to the proposed operation. This provision establishes a procedure and requirements of an objection, before parties proceed with a formal hearing before the Commission. Finally, if the operator fails to file an Application for Permit to Drill, Form 2, within 90 days of the expiration of the 30-day notice period, the notice will be considered withdrawn. A notice provision is included in the current rule, but this amendment clarifies the process and provides an action deadline which does not currently exist.

7. Elimination of Outdated Effectiveness Review (318A e. (7)). This amendment eliminates an effectiveness review of the GWA infill provisions, from the previous Rule 318A amendment, that was required to be completed by March 1, 2008.

8. Elimination of Limitation of Eight Completions (318A f). This proposed amendment eliminates the restriction on the number of wellbore completions per quarter section, and thus the requirement that any increase in the number of completions beyond eight requires Commission approval. The current limitation of eight completions has driven a significant increase in the demand for Commission hearings in recent months. With the increasing demand for horizontal wells in the GWA, this trend will continue in the absence of this amendment.

The limitation of eight wellbores commonly causes an operator to seek a well number exception because the current rule is not conducive to operator utilization of optimum infill well locations for recovery of the resource. Sometimes the drilling sequence of wells resulted in bypassed reserves, as the eight well limit would be reached before reaching each otherwise authorized infill location.

The amendment provides greater flexibility for the operator to match the number and location of wells to that necessary to fully develop the resource. This amendment does not eliminate the surface use limitation imposed in the original GWA Rule. Utilization of GWA drilling windows and twinning existing wells are still required.

9. Waste Management Plans (318A h). This amendment requires an operator filing a Oil and Gas Location Assessment, Form 2A, to file a waste management plan in accordance with Rule 907.a. The waste management plan will require the operator to describe its basic exploration and production waste handling operations at the location including: 1) storage; 2) transportation method; 3) transportation frequency; 4) disposal sites; and 5) any planned re-use and recycling. It is not intended that the waste management plan be particularly detailed. It is intended to demonstrate the operator's conceptual plan for dealing with: 1) drill cuttings, produced water, and tank bottoms; 2) what the operator will do with the waste when it is generated; 3) how the operator will be transport the waste; and 4) how the waste will be disposed.

CONCLUSION

These proposed amendments to the Rule 318A, are expected to allow further development of the GWA in a logical and cooperative manner, to the benefit of mineral owners, residents, and industry, while continuing to provide balanced, reasonable protections to surface owners and the environment.