Pending Rule for IDAPA 20.07.02
Frequently Asked Questions
Updated January 10, 2017

Q. Why was the list of permits deleted from the rules?

A. The list of permits is already in the statute, so a reference to the statue is substituted. Resubmittal, denial, and appeals processes were changed to conform to the statute. Modifications were also made to provide clarity to the process. (Section 040)

Q. What changes were made to well log requirements?

A. Requirements for submitting interpretations of well log data were removed. The cuttings requirement was modified to clarify that sampling is not required, only duplicate sampling if a cuttings sample is taken. Side wall core requirements were changed to match the requirements for whole core sampling. No cores are required to be taken, and they will only be sent to the Department if an operator elects to dispose of them. (Section 341)

Q. What are requirements for the calibration of meters to assure accurate measurement of products?

A. Under previous rules calibration is required annually and a third party is not required. The rules are modified to required calibration quarterly, and will be done by a third party. (Section 410)

Q. Why not require instantaneous meter reading or third party meter reading to assure royalties and severance taxes are properly paid?

A. Metering at each well head is already a requirement (Sections 401 for oil and 402 for gas). The Department is not aware of third party meter reading requirements in other states. Requirements for instantaneous meter reporting are also not known. Required production reporting (Section 400) is on sold volumes. This removes water and other impurities that are included in flows reported from the well head. The Idaho State Tax Commission is responsible for auditing severance tax payments, not the Oil and Gas Conservation Commission or the Department. The Department also has no specific authority to intervene in disputes between operators and mineral owners, and no statutory authority to require royalty adjustments based on metering errors. Royalty payments are a contract issue between two private parties, and it would be unusual for the state to be involved in any enforcement of that contract.

Q. Why not require more frequent production reporting and make it available immediately?

A. Monthly production reporting is currently required. The rule modifications require biannual (twice per year) daily production reporting. (Section 500) Changes to the public release time frame for production reports would require a statutory change.

Q. Why was 300 feet decided as the setback instead of 500 feet or more?

A. The 300 foot setback to occupied structures is the same setback currently in place for tank batteries and processing facilities. While some states do have setbacks greater than 300 feet, they can also approve exceptions to those setbacks. In addition, some states have no setbacks at all. The 300 foot setback is similar to, or greater than, National Fire Protection Association (NFPA) Standard 30 for setbacks on petroleum storage tanks.

Q. Why weren't bonding amounts increased?

A. The Department believes bonding amounts to be sufficient at this time. The minimum bond amount for surface use in a split estate situation is $5,000 (Subsection 110.04). The existing rule allows the surface owner to suggest larger bonds based on the specific facts. Some other states do have higher bond amounts, but other states have no surface use bond requirements. The Bureau of Land Management ("BLM") requires a $1,000 bond. Site reclamation and plugging are covered separately by the drill permit bond, so the surface use bond is only needed for loss of agricultural income and damages to improvements. Property value is too subjective to include in the surface use bond, and is not supported by examples from other states or the BLM. No surface use bonds have been posted to date, so the Department does not see a need to change the amount at this time. Blanket bonds and well bonds in (Section 220) are similar to those required in other states, so they appear to be sufficient. Violations, spills, and incidents are compliance issues that will be addressed by the Department and the Idaho Department of Environmental Quality if they occur.

Q. Shouldn't the Department require the amounts and types of fluids used in hydraulic fracturing to be reported prior to the activity, and required it be kept farther from aquifers?

A. Hydraulic Fracturing was outside the scope of this negotiated rulemaking. However, current rules (Subsection 210.01) already require the reporting of types and amounts of fluids for hydraulic fracturing. No hydraulic fracturing for oil and gas has occurred yet in Idaho, and no unconventional resources that require this type of well treatment have been identified in Idaho. Also, studies on FracFocus suggest that adequate buffers are being left between water aquifers and hydraulic fracturing when it occurs in other states.

Q. Why aren't there rules regarding hazardous wastes spread on agricultural fields?

A. The Department is not aware of any proposals to implement this practice, also called land farming. Drilling wastes from the Western Idaho Basin have been disposed of at the Clay Peak Landfill, Envirosafe, and other suitable locations. Hazardous waste rules

administered by the Idaho Department of Environmental Quality must be complied with at all times.

Q. Why is Integration allowed? Won't it result in landowners being forced to have drilling occur on their land without their consent?

A. Integration has been allowed by statute since 1963 to ensure the orderly development of the crude oil and natural gas resources in the State of Idaho. It also ensures that all mineral interest owners within a specific spacing unit receive their proportionate share of the profits of the minerals. Disallowing integration is outside the scope of this rulemaking and outside legislative intent of Idaho Code § 47-3. Applications for integration must include a statement that the proposed drill site is leased (Idaho Code § 47-322(d)(iv)), so unwilling landowners will not be forced to have drilling occur on their land.

Q. Why is spacing being changed? Why don't operators have the opportunity to make spacing fit their particular situation?

A. The rules establish statewide spacing for oil and gas wells that is predictable and allows for orderly development in a field. Without statewide spacing that defines spacing units, every well application would first require a hearing to set the spacing unit. If an operator desires a spacing unit that is a different shape or size than the statewide spacing, or they want a 640 acre gas spacing unit that does not conform to Section lines, then they can apply to the Commission for a spacing unit that is different than the statewide spacing. The application must include specific geologic information that supports the request, and a hearing will be required. Spacing requests that attempt to create spacing units based solely on land ownership or leasehold status are not allowed. The purpose of spacing is to have the largest possible area that one well can efficiently and economically drain.