

**RULES
OF THE
OIL AND GAS PROGRAM
DIVISION OF WATER RESOURCES**

**CHAPTER 0400-58-01
DETERMINATIONS UNDER FEDERAL NATURAL
GAS POLICY ACT OF 1978**

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0400-58-01-.01 DEFINITIONS.

- (1) "F.E.R.C." means the Federal Energy Regulatory Commission.
- (2) "F.E.R.C. Rules" means rules or regulations adopted by F.E.R.C. implementing the NGPA.
- (3) "NGPA" means the Natural Gas Policy Act of 1978 enacted by the United States Congress on November 9, 1978, and as that Act may subsequently be amended, supplemented, or superseded by subsequent legislation by Congress.
- (4) "Application" shall mean a written request for status determination in accordance with Rule 0400-58-01-.03 herein and shall also mean "petition" within the meaning of other rules, regulations, and orders by the Board, when applied to NGPA status determination proceedings by the Board.
- (5) "Sections 102, 103, 107, and 108" or reference to any one or more of those sections shall mean and be in reference to those sections of the NGPA.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.02 APPLICABILITY OF OTHER RULES.

Except where the same conflict with these rules pertaining to NGPA Determinations, F.E.R.C. rules, or the NGPA, all other rules, regulations, and orders of the Board are applicable thereto.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.03 APPLICATION AND FILING PROCEDURE.

Any interested person requesting the classification of a gas well under Sections 102, 103, 107 or 108 by the Board pursuant to the authority granted to the Board by Section 503 of the NGPA, in order to determine the applicable status for such wells, shall initiate such determination by:

- (1) Filing with the Board NGPA Form No 121.

(Rule 0400-58-01-.03, continued)

- (2) Filing with the Board Forms TGP 102, TGP 103, TGP 107 or TGP 108, whichever is appropriate.
- (3) Filing with the Board all forms, information, plats, exhibits, affidavits, documents, and evidence required by Part 274 of the F.E.R.C. rules, and other applicable F.E.R.C. rules, and required by these rules herein, and by Board Forms TGP 102, 103, 107 and 108.
- (4) Attesting to the application in the manner required by Section 274 and other applicable rules of the F.E.R.C. rules for such filings.
- (5) Paying a fee of twenty-five dollars (\$25) to the State of Tennessee through the Supervisor for each application filed. Checks should be made payable to the State of Tennessee.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.04 EVIDENCE BY AFFIDAVIT.

Applications may be considered and determined by the Board on the basis of information contained in the application provided such application complies with all other rules herein. If there are no objections to the applications by any interested parties, the Board may consider and act on sworn affidavits, as well as exhibits, forms and other matters filed with the Board and constituting a part of the record of the hearing of the application. If confidentiality applies (Rule 0400-52-10-.05) to any items submitted as evidence, a separate letter identifying the items and giving the period of confidentiality should be included with the application.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.05 INTERVENTION.

Any person may intervene in an application and become a proponent or opponent of any application.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.06 ATTESTING TO WRITTEN ORDERS.

Written orders of the Board concerning applications may be signed by the Chairman of the Board and such orders certified by the Chairman as an order duly promulgated by the Board shall have full force and effect as orders signed by the Board members.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.07 LIST OF PARTICIPANTS.

A list of participants in the proceedings, as well as any persons who submitted or sought an opportunity to submit written comment (whether or not such persons participated in the proceedings) shall be made for each hearing.

(Rule0400-58-01-.07, continued)

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.08 FORMS.

- (1) Applications shall be made upon Forms TGP 102 (Application for New Natural Gas Determination), TGP 103 (Application for New Production Well Determination), TGP 107 (Application for High Cost Natural Gas Determination), and/or TGP 108 (Application for Stripper Well Natural Gas Determination), and any form required by F.E.R.C. The original and two copies of such application shall be filed with the Board, along with a self-addressed stamped envelope for return of one of the copies after the filing date and docket number have been noted by the Board. The F.E.R.C. 121 Form and Form TGP 102, 103, 107 and 108 may be submitted in lieu of the second complete copy of the application. All applications shall be fully completed as appropriate in conformance with Board rules as well as with F.E.R.C. rules, and the well for which a determination is being sought shall have been classified by the Tennessee Office of Geology before such applications may be heard by the Board. Upon receipt of an application, the Board shall notify the applicant of the receipt of such application and, should the application be incomplete in any respect, indicate the nature of the incompleteness. Upon the receipt of application, such application shall be considered filed with the Board, assigned a docket number, and notice duly published, provided all other rules referred to herein have been complied with.
- (2) The date the application is received by the Board shall be considered the filing date or record, unless after a determination has become final it is determined that the application did not, in fact, qualify for the request status in the first place, in which case the Board shall consider the filing date of record of a new application to be the date the disqualified application for a price determination for a particular reservoir was received by the Board. This exception shall be allowed between categories as well as within a particular category, but shall only apply to those wells for which commercial sale of natural gas has occurred after the original determination was filed. Written notice shall be given to the F.E.R.C. and to the applicant for any determination for which this exception shall apply.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.09 NOTICE OR DETERMINATION.

After making a determination that an application does or does not qualify for the requested status under the NGPA, the Board shall give written notice of such determination to F.E.R.C. in accordance with F.E.R.C. rules.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-58-01-.10 METHOD OF DETERMINATIONS.

- (1) The Board hereby certifies that it shall take such steps as are reasonably necessary or appropriate to perform its function in accordance with Part 214 of the implementing rules of F.E.R.C.
- (2) The method by which the Board shall make determination is as follows:

(Rule0400-58-01-.10, continued)

- (a) Applicants for determination shall file on forms required by the F.E.R.C. and by the Board in order to receive a hearing. Forms required by the Board are:
 - 1. Form CN-0211 (Application for Permit to Drill)
 - 2. Form CN-0228 (Application to Amend Well Permit)
 - 3. Form CN-0237 (Application to Change Operators) if applicable
 - 4. Form CN-0219 (Organization Report)
 - 5. Form CN-0221 (Well History, Work Summary, and Completion or Recompletion Report)
 - 6. Form R-DT-1 (Gas Well Deliverability Tests)
 - 7. Form CN-0244 (Monthly Gatherer's and/or Transporter's Natural Gas Report)
 - 8. Form No. TGP 102 (Application for New Natural Gas Determination), TGP 103 (Application for New Production Well Determination), TGP 107 (Application for High Cost Natural Gas Determination), or TGP 108 (Application for Stripper Well Natural Gas Determination), whichever is appropriate.
- (b) Notice of filing by applicants is required by the rules of the Board to be given by applicants to identified purchases, as required by Section 274.201(e) of the said Regulations of F.E.R.C. (paragraph (3) of Rule 0400-58-01-.03).
- (c) Public notice of the filing, pending hearing, and pending determination of applications for determinations shall be given by the Board at least ten (10) days prior to such hearing, giving the date, time, and place of such hearing. Such public notice shall be given by publication at least once in a newspaper of general circulation published in Nashville, Knoxville, and Chattanooga.
- (d) All such rules and regulations and orders of the Board are required to be in writing, T.C.A. § 60-1-204(d). Petitions shall be filed at least fifteen days prior to the hearing thereon. When a proceeding is instituted, the Board assigns a docket number to the application and records the fact and the dates of the filing of the application in a docket book provided for such purpose (subparagraph (g) of this paragraph). Testimony is recorded, transcribed, and preserved as a part of the permanent record of the hearing. Any person testifying is required to do so under oath; however, relevant unsworn statements, comments, and observations by any interested person may be heard and considered by the Board and included in the record. In matters where there are no objections of record, sworn affidavits of witnesses may be received in evidence (Rule 0400-58-01-.04). The relevancy of any testimony or other evidence is subject to challenge by any party to the hearing or any member of the Board. When so interposed, such objections are acted upon by the Chairman, his ruling being subject to challenge and overturning by a majority vote of the Board.
- (e) Full opportunity is afforded all interested parties at a hearing to present evidence and to cross-examine witness.
- (f) The Board maintains data files which contain the records on each individual well in the State. Such well records consist of the following:
 - 1. Application to Amend Well Permit (Form CN-0228).

(Rule0400-58-01-.10, continued)

2. Application to Change Operators (Form CN-0237).
3. Application for Permit to Drill (Form CN-0211).
4. Gas Well Deliverability Tests (Form R-DT-1).
5. Monthly Gatherer's and/or Transporter's Natural Gas Report (Form CN-0244).
6. Organization Report (Form CN-0219).
7. Plug and Abandon Report (Form CN-0217).
8. Pressure Maintenance and Secondary Recovery Questionnaire (Form CN-0141).
9. Transporter's and Storer's Monthly Report for Crude Oil and/or Condensate (Form CN-0229).
10. Well History, Work Summary, and Completion or Recompletion Report (Form CN-0221).
11. Application for New Natural Gas Determination (Form TGP-102).
12. Application for New Production Well Determination (Form TGP-103)
13. Application for High Cost Natural Gas Well Determination (Form TGP-107).
14. Application for Stripper Well Natural Gas Determination (Form TGP-108).

Further, the Board maintains a library of drill cuttings, cores and logs from wells in the state. Records of the Board include extensive geologic and engineering data, such as geologic structure, isopach, and cross-section maps, production data, well potential test results, bottom hole pressure surveys, fluid analyses, gas analyses, and other similar data.

The Board maintains field or reservoir base maps and all wells completed in or penetrating a reservoir are identified.

A monthly activity report is published by the Board for all wells being drilled or completed in the State and a monthly production report is available giving monthly production from all producing wells in the State.

- (g) Applications for determinations shall be filed and assigned a docket number upon receipt. The professional staff of the Board shall then study the application and data submitted in conjunction with records of the Board as identified in subparagraph (f) of this paragraph. Information contained in the application shall be verified to the extent possible with information on file with the Board. The staff of the Board includes professional engineers, geologists, and attorneys, as well as other support staff. The application and relevant data shall be considered and discussed in a joint meeting of the professional staff, prior to the public hearing of the application before the Board. Requests for clarification of data or for additional data may be made, where deemed necessary by the staff. Unresolved questions may be asked of the applicant at the hearing.

(Rule0400-58-01-.10, continued)

- (h) The initial authority of the Board for making determination in accordance with the NGPA was established by an emergency order of the Board, which was made at a scheduled hearing under the Uniform Administrative Procedures Act. This action was properly advertised in accordance with the state law and Board rules.

After studying the application, all data submitted by the applicant, all data available in the files of the Board, and hearing any additional evidence submitted at the hearing, the staff of the Board shall make a recommendation to the Board. Where there is no objection, evidence may be submitted by affidavit without oral testimony. Regarding uncontested applications, the Board shall hear them en masse and, where appropriate, grant the same by one order. A list of applications recommended for approval shall be made available prior to the hearing so that comments or objections may be expressed when the applications are considered by the Board.

- (i) The Board shall give written notice to the F.E.R.C. of any change in the procedures described in these rules.

Authority: T.C.A §§ 60-1-105, 60-1-201 et seq., and 4-5-201 et seq.; Natural Gas Policy Act of 1978, Public Law No. 95-621, 92 Stat. 3350 (November 9, 1978). **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.