

**ALABAMA STATE OIL AND GAS BOARD
GOVERNING PRACTICE AND PROCEDURE AND FORCED INTEGRATION OR FORCED
POOLING
ADMINISTRATIVE CODE**

**CHAPTER 400-7-1
RULES AND REGULATIONS GOVERNING PRACTICE AND PROCEDURE**

400-7-1-.11 Notice.

Notice of public hearings held by the Board shall be given in the following manner.

(1) **Preparation of Notice.** Prior to requesting approval to publish a proposed notice, a petitioner may obtain a schedule of hearing dates from the Board. The petitioner shall file a proposed notice for publication with the Board accompanied by a written request for approval to publish the notice for hearing on a specific scheduled hearing date of the Board not less than twenty-five (25) days prior to the meeting at which the petition shall be heard. The Supervisor may approve the proposed notice as submitted or approve the notice with modifications. The Supervisor will provide petitioner an approved notice for publication accompanied by a written statement that the petition is approved for hearing on a specific scheduled hearing date. A statement from the Supervisor approving a notice for publication shall include a listing of the newspaper for publication in accordance with this rule. Upon receipt of an approved notice from the Supervisor, the petitioner may proceed with publication of a notice in accordance with this rule and at petitioner's expense. Proof of notice by publication shall be by affidavit of the publisher of the newspaper in which notice is published, and the original newspaper publication and affidavit of the publisher shall be filed with the Board at least three (3) days prior to the hearing. The Board may, however, in its discretion, waive the three (3) day filing requirement.

(2) **Filing Fees.** Any petitioner, other than the Board, shall submit with the proposed notice, a filing fee of One Hundred Fifty Dollars (\$150.00), by certified check or bank draft payable to the State Treasurer, State of Alabama. One filing fee may be submitted for all notices filed by the same petitioner that relate to the same subject matter.

(3) **Publication of Notice.** Notice of each public hearing before the Board of a petition, motion, or other matter of statewide application shall be published once at least ten (10) days prior to such hearing, in the daily newspaper in Jefferson and Mobile, Counties, having the largest circulation

in the county, as indicated by the most recent annual figures compiled by the Alabama Press Association. Further, when such petition, motion, or other matter shall pertain to specific land and have less than statewide application, notice of such matters shall be published at least ten (10) days prior to such hearing, in the county or counties where the affected land lies.

(a) Notices shall be published in newspapers having the largest circulation in the county, as indicated by the most recent annual figures compiled by the Alabama Press Association.

(b) Publication fees and expenses incurred by the Board in publishing notices of motions by the Board relating to an operator or other party shall be charged to such operator or other party and promptly paid.

(4) **First Class Mail.** In the instances noted below, the petitioner shall give the additional notice specified.

(a) **Petitions for Exceptional Locations.** Notice of hearing a petition for an order authorizing a well to be drilled for oil or gas at a location other than that authorized by rule or order of the Board (an exceptional location) shall be served by the petitioner by ordinary first class mail upon the operator (as reflected by the Board's records) of each adjoining or cornering unit currently producing from the same pool, toward which the well location is proposed to be moved.

(b) **Petitions to Establish Spacing Units.** Notice of hearing a petition for an order establishing (by adoption of special field rules or otherwise) a spacing unit or units for a pool shall be served by the petitioner by ordinary first-class mail:

1. upon the operator (as reflected by the Board's records) of each well that is capable of producing from the pool, and

2. upon each owner in the proposed unit or units whose name is known to the petitioner.

(c) **Petitions to Amend or Reform Established Spacing Units.** Notice of hearing a petition for an order amending or reforming an established drilling or production unit or units shall be served by the petitioner by ordinary first-class mail upon:

1. each working interest owner and royalty interest owner in the established unit,

2. each working interest owner and royalty interest owner in the proposed amended or reformed unit, and
3. the operator (as reflected by the Board's records) of each developed spacing unit that has been established by the Board for the pool in question.

(d) **Petitions to Establish or Amend Allowables.** Notice of hearing a petition for an order establishing (by adoption of special field rules or otherwise) or changing the permanent allowable for any unit or units shall be served by the petitioner by ordinary first class mail upon the operator (as reflected by the Board's records) of each well capable of producing from the same pool.

(e) **Petitions for Forced Pooling.** Notice of hearing a petition for an order requiring the owners of any mineral or other related interest in an established or proposed spacing unit to integrate or pool their interests and to develop their interests and associated lands as a spacing unit (forced pooling) without a risk compensation fee shall be served by the petitioner by ordinary first class mail upon each nonconsenting owner. Notice of hearing a petition for forced pooling with a risk compensation fee shall be served by petitioner in accordance with Section 9-17-13(c) of the Code of Ala. 1975.

(f) **Petitions for Compulsory Unitization.** Notice of hearing a petition for an order requiring the operation as a unit of an entire field or of any pool or pools or of any portion or portions or combinations thereof within a field (compulsory unitization) shall be served by the petitioner by ordinary first-class mail:

1. upon the operator (as reflected by the Board's records) of each well capable of producing from the pool or pools in question,
2. upon each person owning an unleased mineral interest, a working interest, an overriding royalty interest, or a royalty interest within the proposed unit area who has not in writing ratified or approved the plan of unit operation being proposed by the petitioner, and
3. if the proposed unit area includes less than all of the land included within any field established by the Board for the pool or pools in question, upon each owner in the portion of the field not included within the proposed unit area whose name is known to the petitioner.

(g) **Petitions to Establish or Amend Special Field Rules.** Notice of hearing a petition for an order establishing or amending special field rules shall be served by the petitioner by ordinary first-class mail upon the operator (as reflected by the Board's records) of each well within the proposed or established field.

(h) **Notice Required by Supervisor.** Whenever the Supervisor shall determine that notice of hearing a petition should be served upon a person or class of persons because the granting or denying of the relief requested in the petition would materially affect such person's or persons' rights or property, the Supervisor shall notify the petitioner in writing of his determination, and the petitioner shall serve notice of hearing the petition upon such person or persons by first class mail.

(i) **Time and Manner of Notice.**

1. When, pursuant to the provisions set forth above, the petitioner is required to serve notice upon any person by ordinary first class mail, the notice shall be mailed at least fifteen (15) days prior to the date of the hearing; and service shall be deemed complete on the fifth (5th) day after the date on which notice is mailed unless the Board shall find, based upon evidence presented at the hearing, that the notice was received by any person upon whom it was served on some date different from that specified, in which case service shall be deemed complete as to such person on the date notice is shown to have been received by such person.

2. In those cases where notice is to be served by the petitioner upon persons who are known to the petitioner, the petitioner shall make a reasonably diligent effort to determine the mailing address of each such person; and in those cases where notice is to be served by the petitioner upon persons other than persons who are known to the petitioner, the petitioner shall make a reasonably diligent effort to determine the name and mailing address of each such person. If, after the exercise of reasonable diligence, the petitioner is unable to determine either the name or the correct mailing address of any person upon whom notice is to be served by the petitioner, the publication provided for in Rule 400-7-1-11(1) shall be effective as service upon such person.

3. If the petitioner shall fail to serve notice in conformity with the provisions set forth above upon

any person whom the petitioner is required to serve notice, the Board, may, nevertheless, proceed to hear the petition if it is shown to the satisfaction of the Board that the person in question had actual notice of the hearing of the petition at least ten (10) days prior to the date of the hearing.

(5) **Contents of Notice of Petition.** The notice of the petition shall include:

(a) The name of the petitioner;

(b) A statement of the time, place, and nature of the hearing;

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(d) A reference to the particular sections of the statutes and rules involved; and

(e) A short and plain statement of the matters asserted. If the Board or the petitioner is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(f) An accurate description of the lands affected by the petition.

(6) **Proof of Notice by First Class Mail.** Proof of notice by ordinary first-class mail shall be either by testimony or by affidavit of the petitioner or his attorney stating:

(a) the name and address of each person upon whom notice was served, and

(b) that notice was mailed to each such person on or before the fifteenth (15th) day prior to the hearing or, if notice was not mailed to any such person on or before the fifteenth (15th) day prior to the hearing, the date on which notice was mailed to such person and, if known to the petitioner, the date on which notice was received by such person. If, after the exercise of reasonable diligence regarding first class mail as provided for in Rule 400-7-1-.11(4), the petitioner is unable to obtain the name or the mailing address of any person or persons upon whom notice is to be served by the petitioner, the testimony presented or the affidavit filed by the petitioner shall so state and shall also state what efforts were made by the petitioner to obtain the name or mailing address of such person or persons.

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