

**TEXAS RAILROAD COMMISSION REGULATION OF
HORIZONTAL DRILLING IN TEXAS
POTENTIAL PROBLEMS AND PRACTICAL SOLUTIONS**

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I. SCOPE OF PAPER

The purpose of this article is to discuss the Railroad Commission's regulation of drilling horizontal wells. Extensive development of the Barnett Shale, and more recently the Haynesville and Eagleford Shale Plays have presented operators and the Commission with many new questions and problems and led to a number of regulatory developments to address these problems. This process continues to evolve, with several significant regulatory issues currently being debated and/or contested at the Commission as they relate to horizontal drilling. One recent Commission order adopting special field rules for the Carthage (Haynesville) Field was appealed to state district court on February 2010 and will be closely followed by the industry due to its potential impact on drilling across separately owned tracts and allocation of production to separately owned tracts. The limited case law related to the regulatory aspects of horizontal drilling imposes an obvious limitation on any discussion of the topic. As indicated in *Browning Oil Co. v. Luecke*, 38 S.W.3d 625 (Tex. App. – Austin 2000, pet. den'd.) courts may reject the strict application of some of the rules that developed in the context of vertical wells to problems arising with horizontal drilling.

The paper will begin with a discussion of Railroad Commission statewide rules applicable to horizontal drilling and the concepts incorporated by those rules. We will then explore how these concepts have and may be modified by special field rules, with emphasis on special field rules that have been adopted for the largest of the shale play fields including the Newark, East (Barnett Shale) Field, the Carthage (Haynesville) Field, and the more recently adopted Hawkville (Eagleford Shale) Field. This list is by no means exclusive, as numerous new fields have been recognized for the various shale and other fields, and special field rules continue to be applied for by operators in many of these fields, and adopted by the Commission.

II. WHAT RULES APPLY TO HORIZONTAL WELLS?

Example: Operator acquires a 3,000 acre lease in an area where the Eagle Ford Shale may be prospective and desires to explore and develop the lease with horizontal wells. There are no existing Eagle Ford Shale wells immediately adjacent to the lease and the operator is unsure what spacing or density rules may apply to his drilling program for either the first well or subsequent wells on the lease.

Query: How should the operator plan to space its horizontal wells?

Answer: The operator should investigate the field classification of the nearest Eagle Ford completions to determine if special field rules have been adopted for such wells that could potentially apply to operator's lease, if operator's wells are drilled to the same common reservoir. If other Eagle Ford wells exist within a 2½ mile radius, and such wells are assigned to a field or fields with special field rules, the operator should plan to comply with those rules unless he possesses compelling geologic proof that his lease would encounter a new reservoir that has not been previously produced. If no Eagle Ford wells exist for at least a 2½ mile radius, the distance the Commission requires be investigated for a new field designation, the operator should permit his wells "wildcat," projecting a new field discovery for its wells. New fields operate under statewide spacing and density rules until special field rules are adopted. Operator may also wish to permit in the nearest existing Eagle Ford Shale field even though it is more than 2½ miles away from the lease.

A. Overview

The RRC regulates the drilling of horizontal wells either by its statewide rules or by special field rules specifically adopted to govern the drilling and production of horizontal wells in designated fields.

B. Existing Special Field Rules

The RRC had adopted special field rules applicable to horizontal drainholes for relatively few of the thousands of RRC recognized fields in Texas. These special field rules have become increasingly sophisticated to afford operators maximum flexibility to develop their acreage with horizontal wells.

C. Statewide Rules (Rule 37, Rule 38)

1. Application. Rule 37 establishes minimum well spacing of 467' from lease lines or property lines and 1,200' between wells on the same lease or unit in the same field.
2. Statewide Rule 38 establishes minimum well density of 40 acres.
3. Both the 467' and 1,200' rules apply to horizontal wells, unless changed by special field rules.

D. Statewide Rules (Rule 86)

1. Application. Rule 86 now applies to all horizontal wells or drainholes drilled in Texas except those horizontal wells in the fields that have special horizontal rules currently in effect. Rule 86 essentially regulates horizontal drainholes in fields for which the RRC has adopted special field rules that apply only to vertical wells and in fields that are subject to statewide regulation.

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