§ 23-0503. Well spacing in oil and natural gas pools and fields.

1. Spacing orders are not required for wells drilled, deepened, plugged back or converted in oil fields or pools which were discovered, developed and operated prior to January first, nineteen hundred eighty-one. Spacing orders are not required for wells drilled, deepened, plugged back or converted in natural gas fields or pools, which were discovered, developed and operated prior to January first, nineteen hundred ninety-five and which are not being extended.

2. The department shall issue a permit to drill, deepen, plug back or convert a well, if the proposed spacing unit submitted to the department pursuant to paragraph a of subdivision 2 of section 23-0501 of this title conforms to statewide spacing and is of approximately uniform shape with other spacing units within the same field or pool, and abuts other spacing units in the same pool, unless sufficient distance remains between units for another unit to be developed. Prior to issuing any such permit, the department shall publish a notice of intent to issue a well permit in the environmental notice bulletin, which shall include information concerning the spacing unit associated with the well.

3. a. If the proposed spacing unit does not meet the requirements described in subdivision two of this section, the department shall determine if the proposed spacing unit satisfies the policy objectives of section 23-0301 of this article.

b. If the department determines the proposed spacing unit meets the policy objectives of section 23-0301 of this article, the department shall issue a notice of intent to issue a permit and spacing order. The well operator shall cause such notice to be published in a form and manner prescribed by the department. If the notice of intent relates to a proposed spacing unit that is not of a uniform size and shape with other spacing units for the field or pool, the department shall, if necessary, make such adjustment of the allowable production from the well to be drilled thereon so that the owners in the spacing unit receive their just and equitable shares of the production from the pool. Any such adjustment of the allowables shall be included in the notice of

intent to issue a permit and spacing order.

c. Any comments regarding a notice of intent to issue a permit and spacing order must be received by the department within thirty days of the date of the notice of intent and must meet the substantive and significant requirement for establishing an issue for adjudication. Any challenge to a spacing unit must contain (i) a description and a map of the proposed alternative spacing unit; (ii) a technical justification of the proposed alternative spacing unit, which shall include a description and analysis of the scientific data intended by the owner to support its proposed spacing unit configuration; and (iii) the name, address and experience of any expert witness proposed to support the proposed alternative spacing unit configuration. The department may request the owner challenging the spacing unit to present its scientific data to the department.

d. The department shall determine whether substantive and significant issues have been raised. If the department receives no comments or if the comments do not raise a substantive and significant issue, the department shall issue the permit and the final spacing order. If the department determines that substantive and significant issues have been raised in a timely manner, the department shall schedule an adjudicatory hearing.

4. The department may issue permits to drill infill wells on a reasonably uniform pattern within the spacing unit after an integration order has been issued, if required, and only if it determines that drilling infill wells is necessary to satisfy the policy objectives of section 23-0301 of this article. The distances from the unit boundaries set forth in paragraph b of subdivision 1 of section 23-0501 of this title shall apply to any infill wells. For purposes of this section, new lateral wellbores drilled from the original wellbore in the unit are not considered infill wells if they are drilled prior to the first product sales from the original surface location. In a spacing unit established pursuant to clause (vi) of subparagraph 1 of paragraph b of subdivision 1 of section 23-0501 of this title, infill wells shall be deemed necessary, and the number of infill wells required to satisfy the policy

objectives of section 23-0301 of this article must be drilled within three years of the date the first well in the unit commences drilling.

5. For wells permitted prior to the effective date of this section where a spacing order is required but has not been issued, the department shall issue a notice of intent to issue a spacing order. The well operator shall cause such notice to be published in a form and manner prescribed by the department. The department may issue an order without a hearing if the proposed spacing unit complies with the requirements of subdivision two of this section and no substantive and significant objections to the boundaries of the proposed spacing unit are received within thirty days after publication of the notice by the well operator. If the department determines that substantive and significant issues have been raised in a timely manner, the department shall schedule an adjudicatory hearing.

6. Unless it is extinguished pursuant to subdivision seven of this section, a spacing unit established by the department shall be binding upon all persons and their heirs, successors and assigns. Upon good cause shown, an order establishing a spacing unit or a spacing unit which conforms to statewide spacing may be modified by the department without conducting a hearing if a finding has been made that no facts are in dispute after all affected persons have been provided a reasonable opportunity to comment. In a spacing unit established pursuant to clause (vi) of subparagraph 1 of paragraph b of subdivision 1 of section 23-0501 of this title, failure to drill infill wells pursuant to subdivision 4 of this section shall constitute good cause for the department to initiate a modification of the spacing unit. If necessary, upon issuance of an order which changes unit boundaries, the well operator shall adjust the accounts for owners within the original and modified units to reflect the modified boundary. Any participation by new owners and any adjustment of revenue or royalties resulting from participation by new owners shall be on a prospective basis only. If the initial risk penalty phase pursuant to title 9 of this article is in effect, any new owner added to the unit may elect to be integrated as a participating owner, a non-participating owner or an integrated royalty owner as defined by title 9 of this article. Full well costs shall be

assessed against new participating owners and non-participating owners and included in the risk penalty calculation. If the initial risk penalty phase has concluded, any new owner added to the spacing unit may elect to be integrated as a participating owner or an integrated royalty owner on a prospective basis only.

7. Upon the expiration of a well permit or the plugging and abandonment of all wells in a spacing unit, the spacing unit shall be extinguished. Upon extinguishment, all lands within such spacing unit shall be eligible for inclusion in subsequent spacing units.

8. The department, without considering correlative rights, may grant a permit to those entities described in paragraphs b and c of subdivision 3 of section 23-1901 of this article for the purposes of natural gas development if the department determines, after notice and hearing, that the natural gas resource would not be developed by any other entity within twelve months of the close of the hearing record. In the event that the department shall not receive timely notice of appearance prior to the scheduled date of hearing, it may dispense with such hearing. In making its determination the department shall require that the entity described in paragraphs b and c of subdivision 3 of section 23-1901 of this article submit a finding made by such entity that such drilling is likely to be economically sound, and that the entity in question utilize the resource for its exclusive use when granting such a permit.