

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

John Thurston

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Oil & Gas Commission

Department Arkansas Energy & Environment

Contact Shane Khoury E-mail Shane.Khoury@aogc.state.ar.us Phone 501.683.5814

Statutory Authority for Promulgating Rules A.C.A 15-71-110

Rule Title: General Rule B-4 Application to Transfer Well

Intended Effective Date (Check One)		Date
<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published	<u>1/29/2022-1/31/2022</u>
<input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>2/28/2022</u>
<input type="checkbox"/> Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislative Council	<u>04/22/2022</u>
	Adopted by State Agency	<u>12/07/2021</u>

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Peter Alberg

Peter.Alberg@adeq.state.ar.us

04/27/2022

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501.683.5814

Phone Number

Shane.Khoury@aogc.state.ar.us

E-mail Address

Deputy Director/ Chief Counsel

Title

4/27/2022

Date

FINAL RULE

RULE B-4: APPLICATION TO TRANSFER A WELL

a) Definitions

- 1) "Current Permit Holder" means the person required to hold the permit or to whom the permit was issued and who is the owner of the right to drill, produce and/or operate said well(s), possesses the full rights and responsibilities for operating the well(s) in accordance with applicable Arkansas law and/or rule or order of the Commission, and has the current obligation to plug said well(s), who is the assignor, transferor or seller (whether voluntary or involuntary) of the well(s).
- 2) "Deepen" for a cased well means an operation whereby a well is drilled to a measured depth below the cement casing shoe. For an open hole completion, "Deepen" means an operation whereby a well is drilled below the original measured depth of the well.
- 3) "Drill" means the commencement of an operation to either set conductor pipe or the moving in a drilling rig capable of drilling to a depth to set the requisite amount of surface casing and spudding the well, if conductor pipe is not used.
- 4) "New Permit Holder" means person acquiring the well(s) and the right to drill, produce, and/or operate said well(s), who obtains the full rights and responsibilities for operating the well(s) in accordance with applicable Arkansas law and/or rule or order of the Commission, whom will obtain the obligation to plug said well(s), and who as owner or operator in accordance with applicable Arkansas law and/or rule or order of the Commission is required to hold the permit.
- 5) "Re-enter" means an operation whereby surface access to the wellbore is established.
- 6) "Transfer" means any assignment, devise, release, transfer, takeover, buyout, merger, sale, conveyance, or other transfer of any kind, whether voluntarily or involuntarily.
- 7) "Well" means a production well as defined by General Rule B-1.

b) The provisions of this rule apply to all transfers of the interest of the person required to hold and to whom the well transfer approval is issued (Permit Holder), including but not limited to:

- 1) A change of ownership of the right to drill, produce and/or operate well(s), including the obligation to ultimately plug said well(s); or
- 2) A change in the designation of the owner or operator under an operating or other similar agreement; or
- 3) A change pursuant to the action of the owners of separate interests who designate an owner to be Permit Holder; or
- 4) A change required by the appointment, by a court of competent jurisdiction, of a trustee or a receiver to exercise custody and control over the well(s), including the right to drill, produce and/or operate well(s), and the obligation to ultimately plug said well(s)

- c) The provisions of this rule shall not apply to the transfer of the royalty, overriding royalty or fractional working interests not affecting the rights or responsibilities of the Permit Holder.
- d) The provisions of this rule shall not apply to transfers of well(s) abandoned or orphaned in accordance General Rule G-1 or G-2. Transfers of well(s) deemed abandoned or orphaned are subject to the transfer provisions in General Rule G-3.
- e) Notification of a transfer shall be given to the Director, or his designee, by the Current Permit Holder on a form prescribed by the Director.
- f) A separate form shall be completed for each lease, well, or other unit transferred.
- g) The notification shall be signed by the Current Permit Holder and the New Permit Holder, or by authorized representatives specified on the Organizational Report filed in accordance with General Rule B-13, except as follows:
 - 1) In lieu of the signature of the Current Permit Holder, the New Permit Holder may submit a court order or other legal document evidencing ownership of the lease or unit to be transferred in the event that the Current Permit Holder cannot be located or refuses to sign the notification of transfer form.
 - 2) In lieu of the signature of the New Permit Holder, the Current Permit Holder may submit documentation evidencing transfer of the ownership of the well, lease, or unit in the event the New Permit Holder refuses to sign the notification of transfer form.
- h) Prior to the Director, or his designee, approving the transfer request, the New Permit Holder shall:
 - 1) Be authorized to do business within the State of Arkansas; and
 - 2) Provide the required financial assurance, if applicable, in accordance with General Rule B-2 and subparagraphs h) 4) and h) 5) below; and
 - 3) File the required organizational report, if applicable, in accordance with General Rule B-13; and
 - 4) If the transfer is for a gas well producing less than 25 MCF/day per AOGC records, or a well that has received an approved temporarily abandonment status in accordance with General Rule B-7, then the Current Permit Holder and New Permit Holder may file an application, on a form prescribed by the Director, requesting administrative approval of the transfer request.
 - a. If the transfer request is approved administratively, the New Permit Holder shall file an additional, well specific financial assurance of \$35,000 for each natural gas well in a form authorized by General Rule B-2.
 - b. If the transfer request is denied, or if the Director notifies the Current Permit Holder and the New Permit Holder that he is referring the request to the Commission, the Current Permit Holder and New Permit Holder may file an application in accordance with General Rules A-2, A-3, and other established hearing procedures to have the Commission review the transfer request.

- i. If the transfer request is approved by the Commission after notice and hearing as provided above, the New Permit Holder shall file an additional, well specific financial assurance of \$35,000 for each natural gas well in a form authorized by General Rule B-2, unless otherwise provided by the Commission after notice and hearing.
- 5) If the transfer is for a liquid hydrocarbon production well and the well has received an approved temporarily abandonment status in accordance with General Rule B-7, then the New Permit holder is required to replace any amount of well specific financial assurance that is required by the Current Permit Holder, unless otherwise provided by the Commission after notice and hearing, prior to transfer.
- i) A transfer to a New Permit Holder shall be denied by the Director, or his designee, if:
 - 1) The New Permit Holder has not fully satisfied all applicable requirements.
 - 2) The Commission has not approved the transfer in accordance with h) 4) above; or
 - 3) The New Permit Holder has falsified or otherwise misstated any material information on or relative to the transfer application; or
 - 4) No further permits or authorities may be issued in accordance with General Rule A-5 e) 12); or
 - 5) The Director, or his designee, deems it necessary that the transfer request be denied for the purpose of protecting correlative rights of all parties, or to prevent waste as defined by Ark. Code Ann. §15-72-102.
- j) The New Permit Holder shall be responsible for all regulatory requirements relative to all wells and all other surface facilities in existence at the time of the transfer related to the well(s). The New Permit Holder shall not be responsible for regulatory requirements relative to spills of crude oil or other production fluids which occurred prior to the date of the transfer, unless the New Permit Holder has otherwise agreed with the Current Permit Holder.
- k) If any well, or any lease or other unit associated with the well, is in violation at the time of the transfer request to the New Permit Holder, the transfer request shall be denied pending abatement of all violations by the Current Permit Holder. However, if the New Permit Holder, after being notified of the violation(s), agrees in writing to the transfer approval including conditions to abate all violations, the transfer may be approved by the Director, or his designee in accordance with this Rule. Failure to abate the violations within the time period specified by the Director or his designee may result in revocation of the transfer approval in accordance with subparagraph (o) below, and/or other applicable enforcement actions in accordance with General Rule A-5.
- l) The Current Permit Holder is not responsible for any regulatory violation caused by the actions of the New Permit Holder during the permit transfer process. However, if the transfer is denied by the Director, or his designee, the Current Permit Holder assumes all responsibility for the violations caused by the New Permit Holder. Nothing in this subparagraph shall affect the contractual rights and obligations between the person or entity transferring the well(s) and the person or entity acquiring the well(s).

- m) The transfer request shall not affect the rights of the Commission, or any obligation or duty of the Current Permit Holder arising under any applicable Arkansas laws, or rules or orders of the Commission.
- n) The Director shall notify the Current and New Permit Holder of the transfer approval or denial in writing. Following the approval or denial of the transfer approval request, the Current or New Permit holder shall have thirty (30) days from the date of the approval or denial to appeal the Director's Decision in accordance with General Rule A-2, A-3 and other applicable hearing procedures. A transfer request approval or denial, for which an appeal has not been filed, shall become a final administrative decision of the Commission thirty (30) days following the date of the approval or denial.
- o) Well Transfer Revocation Procedures
 - 1) The Director may revoke a well transfer approval if the Permit Holder fails to meet permit conditions as specified in the well transfer approval, the well transfer approval was issued in error, or the Permit Holder falsified or otherwise misstated any material information in the application form.
 - 2) The Director shall notify the Permit Holder of the well transfer revocation in writing. Following the revocation notice the Permit Holder is required to plug the well. The Permit holder shall have thirty (30) days from the date of the well transfer revocation to appeal the Director's Decision to revoke the well transfer approval in accordance with General Rule A-2, A-3 and other applicable hearing procedures. Drilling, production, or operation may not commence or continue during the appeal process. A revocation of a well transfer approval for which an appeal has not been filed, shall become a final administrative decision of the Commission thirty (30) days following the date of the revocation.