

§ 270.201

feet thick, the bottom and top 100 foot portions must meet the five percent test independently).

(9) *Gamma ray index* means when measuring the Devonian age stratigraphic interval, the gamma ray index at any point is to be calculated by dividing the gamma ray log value at that point by the gamma log value at the shale base line established over the entire Devonian age interval penetrated by the well bore.

(10) *Mcf* means one thousand cubic feet of natural gas at 60 degrees Fahrenheit under a pressure equivalent to that of 30.00 inches of mercury at 32 degrees Fahrenheit, under standard gravitational force (980.665 centimeters per second squared).

(11) *Data well* means a well for which permeability and/or pre-stimulation production rate data are available for a pay section in the formation for which a tight formation designation is being sought.

Subpart B—Determinations by Jurisdictional Agencies

§ 270.201 Applicability.

(a) This part applies to determinations of jurisdictional agencies for tight formation gas, occluded natural gas produced from coal seams, and natural gas produced from Devonian shale that is produced through:

(1) A well the surface drilling of which began after December 31, 1979, but before January 1, 1993;

(2) A recompletion commenced after January 1, 1993, in a well the surface drilling of which began after December 31, 1979, but before January 1, 1993; or

(3) A recompletion commenced after December 31, 1979, but before January 1, 1993, where such gas could not have been produced from any completion location in existence in the well bore before January 1, 1980.

(b) This part also applies to determinations of jurisdictional agencies that designate a formation, or portion thereof, as a tight formation.

§ 270.202 Definition of determination.

For purposes of this subpart, a determination has been made by a jurisdictional agency when such determination

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is administratively final before such agency.

§ 270.203 Determinations by jurisdictional agencies.

A jurisdictional agency must make determinations to which this part applies in accordance with procedures applicable to it under the law of its jurisdiction for making such determinations or for making comparable determinations.

§ 270.204 Notice to the Commission.

Within 15 days after making a determination under this part, the jurisdictional agency must give written notice of the determination to the Commission. The notice must include the following:

(a) A list of all participants in the proceeding as well as any persons who submitted or who sought an opportunity to submit written comments (whether or not such persons participated in the proceeding);

(b) A statement indicating whether the matter was opposed before the jurisdictional agency;

(c) A copy of the application together with a copy or description of all other materials upon which the jurisdictional agency relied in the course of making the determination, together with any information which may be inconsistent with the determination.

(d) An explanatory statement, including appropriate factual findings and references, which is sufficient to enable a person examining the notice to ascertain the basis for the determination without reference to information or data not contained in the notice.

Subpart C—Requirements for Filings With Jurisdictional Agencies

§ 270.301 General requirements.

(a) An application for determination may be filed with the jurisdictional agency and signed by any person the jurisdictional agency designates as eligible to make filings with respect to the well for which the application is made.

(b) The documents required by this subpart are the minimum required in

support of a request for a determination. The jurisdictional agency may require additional support as it deems appropriate, and may more specifically identify the documents indicated as the minimum required.

(c) Each applicant must pay the fee prescribed in §381.401 of this chapter. The applicant will be billed annually by the Commission for each jurisdictional agency determination received by the Commission. The applicant must submit the fee, or petition for waiver pursuant to §381.106 of this chapter, within 30 days following the billing date.

§270.302 Occluded natural gas produced from coal seams.

A person seeking a determination that natural gas is occluded natural gas produced from coal seams must file an application with the jurisdictional agency which contains the following items:

- (a) FERC Form No. 121;
- (b) All well completion reports.
- (c) A radioactivity, electric or other log which will define the coal seams.
- (d) Evidence to establish that the natural gas was produced from a coal seam;
- (e) A statement by the applicant, under oath, that gas is produced from a coal seam through:
 - (1)(i) A well the surface drilling of which began after December 31, 1979, but before January 1, 1993;
 - (ii) A recompletion commenced after January 1, 1993, in a well the surface drilling of which began after December 31, 1979, but before January 1, 1993; or
 - (iii) A recompletion that was commenced after December 31, 1979 but before January 1, 1993, where such gas could not have been produced from any completion location in existence in the well bore before January 1, 1980; and

(2) The applicant has no knowledge of any information not described in the application which is inconsistent with his conclusion.

§270.303 Natural gas produced from Devonian shale.

A person seeking a determination that natural gas is produced from Devonian shale shall file an application

with the jurisdictional agency which contains the following items:

- (a) FERC Form No. 121;
- (b) All well completion reports;
- (c) A gamma ray log with superimposed indications of the shale base line and the gamma ray index of 0.7 over the Devonian age stratigraphic section designated pursuant to §270.101(b)(8);
- (d) A reference to a standard stratigraphic chart or text establishing that the producing interval is a shale of Devonian age; and
- (e) A sworn statement:
 - (1) Calculating the percentage of footage of the producing interval which is not Devonian shale as indicated by a Gamma ray index of less than 0.7;
 - (2) Demonstrating that the percentage of potentially disqualifying non-shale footage for the stratigraphic section selected is equal to or less than 5 percent of the Devonian stratigraphic age interval designated pursuant to §270.101(b)(7);
 - (3) Attesting that the natural gas is being produced from Devonian shale through:
 - (i) A well the surface drilling of which began after December 31, 1979, but before January 1, 1993;
 - (ii) A recompletion commenced after January 1, 1993, in a well the surface drilling of which began after December 31, 1979, but before January 1, 1993; or
 - (iii) A recompletion that was commenced after December 31, 1979 but before January 1, 1993, where such gas could not have been produced from any completion location in existence in the well bore before January 1, 1980; and
 - (4) Attesting that the applicant has no knowledge of any information not described in the application which is inconsistent with his conclusion.

§270.304 Tight formation gas.

A person seeking a determination that natural gas is tight formation gas must file with the jurisdictional agency an application which contains the following items:

- (a) FERC Form No. 121;
- (b) All well completion reports;
- (c) A map that identifies the surface location of the well and the completion location in the well in the designated