

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

IN THE MATTER OF CHANGES TO THE RULES ) CAUSE NO. 1R  
OF PRACTICE AND PROCEDURE OF THE OIL )  
& GAS CONSERVATION COMMISSION OF THE ) DOCKET NO. **1211-RM-04**  
STATE OF COLORADO )

NOTICE OF RULEMAKING HEARING

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

The Oil and Gas Conservation Commission of the State of Colorado ("Commission"), on its own motion, will consider additions and amendments to the Rule 100 Series (Definitions), 200 Series (General Rules), 300 Series (Drilling, Development, Production, and Abandonment), 500 Series (Rules of Practice and Procedure), 600 Series (Safety Regulations), 800 Series (Aesthetic and Noise Control Regulations), 900 Series (E&P Waste Management), 1100 Series (Pipeline Regulations), and 1200 Series (Protection of Wildlife Resources) of the Commission's Rules of Practice and Procedure 2 CCR 404-1 ("Rules") to establish new and amended rules for statewide setbacks applicable to drilling and well servicing operations, high density areas and designated outside activity areas, and, aesthetic and noise control regulations. Draft proposed new and amended rules are attached hereto as **Appendix A**. Conforming changes to other rules are attached as **Appendix B**.

In February 2012, the Commission initiated a setback stakeholder group to identify potential issues associated with the Commission's existing setback rules. Nuisance impacts associated with oil and gas operations, including odor, noise and light impacts were among the issues identified and discussed. The purpose of this rulemaking is to address such concerns. The Commission has the authority to conduct this rulemaking pursuant to §§ 34-60-105, 34-60-106(1)(b), 34-60-106(2)(c) and 34-60-106 (2)(d), C.R.S.

NOTICE IS HEREBY GIVEN that the Commission has scheduled the above entitled matter for a rulemaking hearing commencing on:

Date: Wednesday, November 14, 2012. The rulemaking hearing may be continued until December 10-11, 2012 and January 7-8, 2013, if necessary.

Time: 9:00 a.m.

Place: Colorado Oil and Gas Conservation Commission  
1120 Lincoln Street, Suite 801  
Denver, CO 80203

**Appointment of Hearing Officer.** The Commission has appointed Deputy Attorney General Casey Shpall to serve as hearing officer for this rulemaking to address prehearing matters.

**Prehearing Conference.** A prehearing conference will be held on **October 26, 2012** at 9:00 a.m. The conference will take place at The Centennial Building, 1313 Sherman St., Suite 318, Denver, CO 80203. Attendance at the prehearing conference is strongly encouraged for anyone requesting party status. The goals of the prehearing conference include: allocating hearing time; identifying contested matters and issues to be raised at the hearing; and identifying witnesses and exhibits to be presented by the parties and the staff.

**Party Status.** To participate in this rulemaking as a party, a person or organization must file a written request for party status with the Commission that shall include the following information: (1) name of the applicant and their representative (if different); (2) the street address, electronic mail address, and telephone and facsimile numbers of the applicant or their representative; and (3) a brief summary of any policy, factual, or legal issues the applicant has with the proposed regulations as of the time of

filing the application for party status. Applications for party status must be filed, in the manner set forth below, with the Commission by 5:00 pm on **November 2, 2012**. The Commission staff will compile a list of all parties, their street addresses and electronic mail addresses and post it on the Commission website.

**Public Participation.** The Commission encourages the public to participate in the rulemaking hearing by commenting on the proposed regulations. Persons who do not desire party status, but would like to participate in the rulemaking process, will be able to make their views known to the Commission either by submitting comments in writing in advance of or at the rulemaking hearing, or by speaking during the public comment period allotted during the hearing. Depending on the number of people seeking to make oral comments at the hearing, the Commission may need to limit such comments. Organized groups of individuals are urged to identify one spokesperson. Speakers are asked to be as concise as possible, and to avoid repeating comments made by others. If members of the public desire to have the Commission review written material, such documents should be emailed to [DNR\\_COGCC.Rulemaking@state.co.us](mailto:DNR_COGCC.Rulemaking@state.co.us) by **November 7, 2012**. Comments by non-parties need not be submitted in paper format.

**Prehearing Statements.** Each party must file and serve, in the manner set forth below, a prehearing statement by **November 9, 2012**. Parties' prehearing statements: shall be limited to 15 pages, excluding exhibits; shall succinctly summarize the factual and legal issues that arise from the rulemaking proposal, and what position is being taken on each such issue and the basis for that position; shall attach copies of all exhibits to be introduced, and shall list all witnesses to be called.


**Filing and service.** Filings by parties must be served via first class mail on the Commission in hard copy and electronic copy as follows: 1) hard copies for the Commission - the original and 13 copies delivered to Robert J. Frick, Hearings Manager, Docket No. 1211-RM-04, Oil and Gas Conservation Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado, 80203; and 2) an electronic copy emailed, preferably in portable document format (*pdf*), to [DNR\\_COGCC.Rulemaking@state.co.us](mailto:DNR_COGCC.Rulemaking@state.co.us) for posting to the Commission website.

The Commission may take actions, including without limitation, modifying or amending the existing rules described or proposed herein and making conforming modifications to other rules, which it determines are reasonably necessary.

In accordance with the Americans with Disabilities Act, if any party requires special accommodations as a result of a disability for this hearing, please contact Margaret Humecki at (303) 894-2100 ext. 5139, prior to the hearing and arrangements will be made.

Copies of the current and proposed Rules are available on the Commission internet homepage at <http://cogcc.state.co.us> or available upon request at the Commission.

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By   
Robert J. Frick, Secretary

Dated: October 15, 2012

## (STAKEHOLDER DRAFT)

### DEFINITIONS (100 Series)

~~HIGH DENSITY AREA~~ shall mean ~~any tract of land determined to be a high density area in accordance with Rule 603.b.~~ High Occupancy Building Unit shall be any Educational Facility, Hospital, Nursing Home, Board and Care Facility, or Jail which is designed to serve fifty (50) or more persons.

Designated Outside Activity Area shall mean an outdoor venue, such as a playground, recreation area, outdoor theater, or other place of public assembly, where ingress to, or egress from, the venue could be impeded in the event of an emergency condition at an Oil and Gas Location located less than three hundred and fifty (350) feet from the venue due to the configuration of the venue and the number of persons known or expected to simultaneously occupy the venue on a regular basis. Upon Application and Hearing, the Commission shall determine, based on the totality of circumstances, whether an outdoor venue constitutes a Designated Outside Activity Area and, if so, the perimeter boundary of the Designated Outside Activity Area for purposes of Rule 604.c.

### **SERIES DRILLING, DEVELOPMENT, PRODUCTION AND ABANDONMENT**

#### **303. REQUIREMENTS FOR FORM 2, APPLICATION FOR PERMIT-TO-DRILL, DEEPEN, RE-ENTER, OR RECOMPLETE, AND OPERATE; FORM 2A, OIL AND GAS LOCATION ASSESSMENT.**

~~a. FORM 2, APPLICATION FOR PERMIT-TO-DRILL, DEEPEN, RE-ENTER, OR RECOMPLETE, AND OPERATE.~~

a. Form 2, Application for Permit-to-Drill, Deepen, Re-enter or Recomplete, and Operate.

(1) **Approval by Director.** Before any person shall commence operations for the drilling or re-entry of any well, such person shall file with the Director an application on ~~Form 2 for a Permit to Drill,~~ Form 2, Application for Permit-to-Drill, Deepen, Re-enter or Recomplete and Operate (Application for Permit-to-Drill), a completed (or, where it has been approved in advance, an approved) Oil and Gas Location Assessment, Form 2A, ~~pay a filing and service fee established by the Commission (see Appendix III),~~ and obtain the Director's approval before commencement of operations with heavy equipment.

~~(2) **Operational conflicts.** The Permit-to-Drill shall be binding with respect to any operationally conflicting local governmental permit or land use approval process.~~

(2) **Filing Fees.** A Form 2, Application for Permit-to-Drill, shall be submitted with a filing and service fee established by the Commission (see Appendix III). Wells drilled for stratigraphic information only shall be exempt from paying the filing and service fee.

~~(3) **Exemptions.** Wells drilled for stratigraphic information only shall be exempt from paying the filing and service fee. The re-entry of a well in a unitized, storage, or secondary recovery operation shall be exempt from the filing of Form 2 and from paying the filing and service fee. The notice of such intent to re-enter a well shall be filed on a Sundry Notice, Form 4.~~

~~b. A request to recomplete or deepen a well to a different reservoir or to side-track a well shall be filed on an Application for Permit-to-Drill, Form 2, with a filing and service fee established by the Commission (see Appendix III), along with a Sundry Notice, Form 4, detailing the work, and a wellbore diagram.~~

(3) A request to deepen, re-enter, recomplete to a different reservoir, or to drill a side-track of an existing well shall be filed on a Form 2, Application for Permit-to-Drill, including details of the proposed work and a wellbore diagram.

(4) A Form 2, Application for Permit-to-Drill, shall specify the distance between the nearest Building Unit and the proposed wellhead. Compliance with Rules 306.e. and 604 is required if the wellhead is located within 1000 feet of a Building Unit.

(5)e. Attached to and part of the ~~Permit to Drill, Form 2,~~ Form 2, Application for Permit-to-Drill, as filed shall be a current 8½" by 11" scaled drawing of the entire section(s) containing the proposed well location with the following minimum information:

~~(1)~~A. Dimensions on adjacent exterior section lines sufficient to completely describe the quarter section containing the proposed well shall be indicated. If dimensions are not field measured, state how the dimensions were determined.

~~(2)~~B. The latitude and longitude of the proposed well location shall be provided on the drawing with a minimum of five (5) decimal places of accuracy and precision using the North American Datum (NAD) of 1983 (e.g.; latitude 37.12345 N, longitude 104.45632 W). If GPS technology is utilized to determine the latitude and longitude, all GPS data shall meet the requirements set forth in Rule 215. a. through h.

~~(3)~~C. For directional drilling into an adjacent section, that section shall also be shown on the location plat and dimensions on exterior section lines sufficient to completely describe the quarter section containing the proposed productive interval and bottom hole location shall be indicated. (Additional requirements related to directional drilling are found in Rule 321.)

~~(4)~~D. For irregular, partial or truncated sections, dimensions will be furnished to completely describe the entire section containing the proposed well.

~~(5)~~E. The field-measured distances from the nearer north/south and nearer east/west section lines shall be measured at ninety (90) degrees from said section lines to the well location and referenced on the plat. For unsurveyed land grants and other areas where an official public land survey system does not exist, the well locations shall be spotted as footages on a protracted section plat using Global Positioning System (GPS) technology and reported as latitude and longitude in accordance with Rule 215.

~~(6)~~F. A map legend.

- ~~(7)~~G. A north arrow.
- ~~(8)~~H. A scale expressed as an equivalent (e.g. - 1" = 1000').
- ~~(9)~~L. A bar scale.
- ~~(10)~~J. The ground elevation.
- ~~(11)~~K. The basis of the elevation (how it was calculated or its source).
- ~~(12)~~L. The basis of bearing or interior angles used.
- ~~(13)~~M. Complete description of monuments and/or collateral evidence found; all aliquot corners used shall be described.
- ~~(14)~~N. The legal land description by section, township, range, principal meridian, baseline and county.
- ~~(15)~~O. Operator name.
- ~~(16)~~P. Well name and well number.
- ~~(17)~~Q. Date of completion of scaled drawing.
- R. -The location and descriptive name of all buildings within 350 feet of the proposed well.

**bd. FORM 2A, OIL AND GAS LOCATION ASSESSMENT.**

~~(1) A completed Oil and Gas Location Assessment, Form 2A, shall be submitted for any new oil and gas location, unless exempted as set forth below. For purposes of this section, "new oil and gas location" shall mean surface disturbance at a previously undisturbed site or surface disturbance for purposes of modifying or expanding an oil and gas location in existence on May 1, 2009 on federal land or April 1, 2009 on all other land.~~

(1) Unless exempted under subsection 2, below, a completed Form 2A, Oil and Gas Location Assessment, approved by the Director or the Commission is required for:

- A. Any new Oil and Gas Location. For purposes of this section, "new Oil and Gas Location" shall mean surface disturbance at a previously undisturbed site;
- B. Surface disturbance for purposes of modifying or expanding an existing Oil and Gas Location; or
- C. The addition of a well or a pit to any existing Oil and Gas Location.

**(2) Exemptions.** A new Form 2A shall not be required for the following:

- A. Surface disturbance, other than drilling a new well or constructing a ~~drilling or production~~ pit, ~~occurring~~ at an existing ~~oil and gas facility~~ Oil and Gas Location within the originally disturbed area, even if interim reclamation has been performed;

- B. For an ~~oil and gas location~~ Oil and Gas Location covered by an approved Comprehensive Drilling Plan and where such Comprehensive Drilling Plan contains information substantially equivalent to that which would be required for a Form 2A for the proposed ~~oil and gas location~~ Oil and Gas Location and the Comprehensive Drilling Plan has been subject to procedures substantially equivalent to those required for a Form 2A, including but not limited to consultation with surface owners, local governments, the Colorado Department of Public Health and Environment or Colorado ~~Division of Wildlife~~ Parks and Wildlife, where applicable, and public notice and opportunity to comment, and where the operator does not seek a variance from the Comprehensive Drilling Plan or a provision of these rules that is not addressed in the Plan;
- C. Gathering lines;
- D. Seismic operations;
- E. Pipelines for oil, gas, or water; or
- F. Roads.
- (3) **Information requirements.** ~~In all instances, the~~ The Form 2A requires the attachment of the following information. Where the information required under this section has been included in a federal Surface Use Plan of Operations meeting the requirements of Onshore Oil and Gas Order Number 1 (72 Fed. Reg. 10308 (March 7, 2007)), or for a federal Right of Way, Form 299, then the operator may attach the completed pertinent information and identify on the Form 2A where the information required under this section may be found therein.
- A. A Form 2A shall specify the distance between the nearest Building Unit and the proposed or existing wellhead or production facility closest to said Building Unit. Compliance with Rules 306.e. and 604 is required if any wellhead or any production facility is located within 1000 feet of a Building Unit.
- B. A minimum of four (4) color photographs, one (1) of the staked location from each cardinal direction. Each photograph shall be identified by: date taken, well or location name, and direction of view.
- ~~B~~C. A list of major equipment components to be used in conjunction with drilling and operating the well(s), including all tanks, pits, flares, combustion equipment, separators, and other ancillary equipment and a description of any pipelines for oil, gas, or water.
- ~~C~~D. A scaled drawing, or scaled aerial photograph showing all visible improvements within ~~four~~ five hundred (~~400~~ 500) feet of the proposed ~~oil and gas location~~ Oil and Gas Location, with a horizontal distance and approximate bearing from ~~oil and gas location~~ Oil and Gas Location. Visible improvements shall include, but not be limited to, all buildings or residences, publicly maintained roads and trails, major above-ground utility lines, railroads, pipelines, mines, oil wells, gas wells, injection wells, water wells known to the operator and those registered with the Colorado State Engineer, known springs, plugged wells, known sewers with manholes, standing bodies of water, and natural channels including permanent canals and ditches through which water may flow. A

description of surface uses within the ~~four-five~~ hundred (400500) foot radius of a proposed ~~oil-and-gas-location~~ Oil and Gas Location, if any, shall be attached to the scaled drawing. If there are no visible improvements within ~~four-five~~ hundred (400500) feet of a proposed ~~oil-and-gas-location~~ Oil and Gas Location, it shall be so noted on the Form 2A.

~~D~~E. A topographic map showing all surface waters and riparian areas within one thousand (1,000) feet of the proposed ~~oil-and-gas-location~~ Oil and Gas Location, with a horizontal distance and approximate bearing from the ~~oil-and-gas-location~~ Oil and Gas Location.

~~E~~F. An 8 1/2" by 11" vicinity map, ~~or~~ U.S. Geological Survey topographic map, or scaled aerial photograph showing the access ~~road-route~~ from the highway or county road ~~providing access~~ to the proposed ~~oil-and-gas-location~~ Oil and Gas Location.

~~F~~G. Designation of the current land use(s) and landowner's designated final land use(s) and basis for setting reclamation standards.

i. If the final land use includes residential, industrial/commercial, or cropland and does not include any other uses, the land use should be indicated and no further information is needed.

ii. If the final land use includes rangeland, forestry, recreation, or wildlife habitat, then a reference area shall be selected and the following information shall be submitted:

aa. A topographic map showing the location of the site, and the location of the reference area; and

bb. Four (4) color photographs of the reference area, taken during the growing season of vegetation and facing each cardinal direction. Each photograph shall be identified by date taken, well or ~~oil-and-gas-location~~ Oil and Gas Location name, and direction of view. Provided that these photographs may be submitted at any time up to twelve (12) months after the Form 2A.

~~G~~H. Natural Resources Conservation Service (NRCS) soil map unit description.

~~H~~I. If the ~~oil-and-gas-location~~ Oil and Gas Location disturbance is to occur on lands with a slope ten percent (10%) or greater, or one (1) foot of elevation gain or more in ten (10) foot distance, then the following shall be required:

i. Construction layout drawing (construction and operation); and

ii. Location cross-section plot (construction and operation).

J. If the proposed Oil and Gas Location is within 1000 feet of a Building Unit:

i. A scaled facility layout drawing depicting all existing and proposed new oil and gas facilities; and



ii. A Waste Management Plan meeting the general requirements of Rule 907.a.

~~IK.~~ Where the proposed ~~oil and gas location~~ Oil and Gas Location is for multiple wells on a single pad, a drawing showing proposed wellbore trajectory with bottom-hole locations.

~~JL.~~ A description of any applicant-proposed Best Management Practices or, where a variance from a provision of these rules is sought, any applicant-proposed measures to meet the standards for such a variance. With the consent of the surface owner, this may include mitigation measures contained in the relevant surface use agreement.

~~KM.~~ ~~Where-If~~ the proposed ~~oil and gas location~~ Oil and Gas Location is covered by a Comprehensive Drilling Plan accepted pursuant to Rule 216, a list of any conditions of approval.

~~LN.~~ Contact information for the surface owner(s) and an indication as to whether there is a surface use agreement(s) or any other agreement(s) between the applicant and the surface owner(s) for the proposed ~~oil and gas location~~ Oil and Gas Location.

~~MO.~~ Designation of whether the proposed ~~oil and gas location~~ Oil and Gas Location is within sensitive wildlife habitat or a restricted surface occupancy area.

~~NP.~~ ~~Where-If~~ the proposed ~~oil and gas location~~ Oil and Gas Location is within a zone defined in Rule 317B, Table 1, documentation that the applicant has provided notification of the application submittal to potentially impacted public water systems within fifteen (15) stream miles downstream.

~~OQ.~~ Any additional data as reasonably required by the Commission as a result of consultation with the Colorado Department of Public Health and Environment or ~~the Colorado~~ Division of Wildlife Parks and Wildlife.

R. Oil and Gas Locations in wetlands. In the event that an operator, ~~otherwise required to file a Form 2A,~~ acquires an Army Corps of Engineers permit pursuant to 33 U.S.C.A. §1342 and 1344 of the Water Pollution and Control Act (Section 404 of the federal "Clean Water Act") for construction of an Oil and Gas Location, the operator shall so indicate on the Oil and Gas Location Assessment, Form 2A.

~~(4) Form 2A requiring approval.~~

~~A. The Oil and Gas Location Assessment, Form 2A, requires Commission or Director approval prior to approval of Permits to Drill, Form 2, or other permit applications, in the following circumstances:~~

~~i. The proposed oil and gas location will disturb more than one (1) acre and is located in one of the following counties in Colorado:~~

~~aa. Garfield;~~

~~bb. Mesa;~~



~~cc. Gunnison; or~~

~~dd. Rio Blanco.~~

~~ii. The proposed oil and gas location requires consultation with the Colorado Division of Wildlife or the Colorado Department of Public Health and Environment, pursuant to Rules 306.c and 306.d, respectively;~~

~~iii. The local governmental designee requests consultation on the proposed oil and gas location pursuant to Rule 306.b; or~~

~~iv. Where the proposed oil and gas location requires submittal of a Form 2A and the proposed oil and gas facility:~~

~~aa. Is a production facility;~~

~~bb. Is servicing multiple wells; and~~

~~cc. Would not require any other Commission permit or facility registration.~~

~~B. Where the Oil and Gas Location Assessment, Form 2A, requires approval, the operator shall file the Form 2A prior to or concurrent with a Permit to Drill, Form 2, for individual wells to be constructed at the oil and gas location.~~

~~(5) Form 2A informational report.~~

~~Where a proposed oil and gas location is outside those situations described in Rule 303.d.(4), the Oil and Gas Location Assessment, Form 2A, is a report that does not require approval prior to approval of Permits to Drill, Form 2.~~

~~In these circumstances, the Form 2A shall be submitted concurrently with the Application for Permit to Drill, Form 2, or other permit applications, and it will be subject to completeness review pursuant to Rule 303.h.~~

ec. Processing time for approvals under this section.

(1) In accordance with Rule 216.f.(3), where a proposed ~~oil and gas location~~ Oil and Gas Location is covered by an approved Comprehensive Drilling Plan and no variance is sought from such Plan or these rules not addressed in the Comprehensive Drilling Plan, the Director shall give priority to and approve or deny an Application for Permit-to-Drill, Form 2, or, where applicable, Oil and Gas Location Assessment, Form 2A, within thirty (30) days of a determination that such application is complete pursuant to Rule 303.h, unless significant new information is brought to the attention of the Director.

(2) If the Director has not issued a decision on an Application for Permit-to-Drill, Form 2, or, ~~where approval is required,~~ an Oil and Gas Location Assessment, Form 2A, within seventy-five (75) days of a determination that such application is complete, the operator may request a hearing before the Commission on the permit application. Such a hearing shall be expedited but will be held only after both the 20 days' notice and the newspaper notice are given as required by Section 34-

60-108, C.R.S. However, the hearing can be held after the newspaper notice if all of the entities listed under Rule 503.b waive the 20-day notice requirement.

~~f. **Oil and gas locations in wetlands.** In the event that an operator, otherwise required to file a Form 2A, acquires an Army Corps of Engineers permit pursuant to 33 U.S.C.A. §1342 and 1344 of the Water Pollution and Control Act (Section 404 of the federal "Clean Water Act") for construction of an oil and gas location, the operator shall so indicate on the Oil and Gas Location Assessment, Form 2A.~~

gd. **Revisions to Form 2 or Form 2A.** Prior to approval of the Form 2 or Form 2A permit application, minor revisions or requested information may be provided by contacting the COGCC staff. After approval, any substantive changes shall be submitted for approval on a Form 2 or Form 2A. A Sundry Notice, Form 4, shall be submitted, along with supplemental information requested by the Director, when non-substantive revisions are made after approval, and no additional fee shall be imposed.

he. **Incomplete applications.** Applications for Permit-to-Drill, Form 2, or Oil and Gas Location Assessments, Form 2A, which are submitted without the required ~~information and~~ attachments, the proper signature, or the required information, shall be considered incomplete and shall not be reviewed or approved. The COGCC staff shall notify the applicant in not more than ten (10) days of its receipt of the application of such inadequacies, except that the Director shall notify the applicant of inadequacies within three (3) business days of its receipt where the proposed ~~oil and gas location~~ Oil and Gas Location is covered by an accepted Comprehensive Drilling Plan. The applicant shall then have thirty (30) days from the date that it was contacted to correct or provide requested information, otherwise the application shall be considered withdrawn and the fee shall not be refunded.

if. **Information requests after completeness determination.** Subsequent to deeming an Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, complete, the Director may request from the operator additional information needed to complete review of and make a decision on such an application. Such an information request shall not affect an operator's ability to request a hearing pursuant to Rule 303.e seventy-five (75) days from the date the Form 2 or Form 2A was originally determined to be complete pursuant to Rule 303.h.

ig. **Permit expiration.**

(1) ~~**For Applications for Permit-to-Drill, Form 2.** Approval of a Form 2 for a well permitted pursuant to an application submitted on or after July 1, 2009 on federal land or April 1, 2009 on all other land, and for which a Form 2A was also submitted in compliance with the rules as amended in December 2008, shall become null and void if drilling operations on the permitted well are not commenced within two (2) years after the date of approval. Approval of a Form 2 for a well permitted pursuant to an application submitted before July 1, 2009 on federal land or April 1, 2009 on all other land, or for which a Form 2A was not submitted in compliance with the rules as amended in December 2008, shall become null and void if drilling operations are not commenced on the permitted well within one (1) year after the date of approval.~~ The Director shall not approve extensions to applications for Permit-to-Drill, Form 2.

(2) ~~**For Oil and Gas Location Assessments, Form 2A.**~~ If construction operations are not commenced on an approved ~~oil and gas location~~ Oil and Gas Location within three (3) years after the date of approval, then the approval

shall become null and void. The Director shall not approve extensions to Oil and Gas Location Assessments, Form 2A.

**kh. Permits in areas pending Commission hearing.** The Director may withhold the issuance of ~~a permit and the granting of approval of~~ any Permit-to-Drill, Form 2, for any well or proposed well that is located in an area for which an application has been filed, or which the Commission has sought, by its own motion, to establish drilling units ~~or to designate any tract of land as a high density area~~, in which case the hearing thereon shall be held at the next meeting of the Commission at which time the matter can be legally heard.

**hi. Special circumstances for permit issuance without notice or consultation.** The Director may issue a permit at any time in the event that an operator files a sworn statement and demonstrates therein to the Director's satisfaction that:

- (1) The operator had the right or obligation under the terms of an existing contract to drill a well; and the owner or operator has a leasehold estate or a right to acquire a leasehold estate under said contract which will be terminated unless the operator is permitted to immediately commence the drilling of said well; or
- (2) Due to exigent circumstances (including a recent change in geological interpretation), significant economic hardship to a drilling contractor will result or significant economic hardship to an operator in the form of drilling stand by charges will result.

In the event the Director issues a permit under this rule, the operator shall not be required to meet obligations to surface owners, local governmental designees, the Colorado Department of Public Health and Environment, or ~~the Colorado~~ [Division of Wildlife Parks and Wildlife](#) under Rule 305 (except Rules 305.e.(4) and 305.e.(6), for which compliance will still be required) and 306. The Director shall report permits granted in such manner to the Commission at regularly scheduled monthly hearings.

**mj. Special circumstances for withholding approval of Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A.**

- (1) The Director may withhold approval of any Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, for any proposed well or ~~oil and gas location~~ [Oil and Gas Location](#) when, based on information supplied in a written complaint submitted by any party with standing under Rule 522.a.(1), other than a local governmental designee, or by staff analysis, the Director has reasonable cause to believe the proposed well or ~~oil and gas location~~ [Oil and Gas Location](#) is in material violation of the Commission's rules, regulations, orders or statutes, or otherwise presents an imminent threat to public health, safety and welfare, including the environment, or a material threat to wildlife resources. Any such withholding of approval shall be limited to the minimum period of time necessary to investigate and dismiss the complaint, or to resolve the alleged violation or issue. If the complaint is dismissed or the matter resolved to the dissatisfaction of the complainant, such person may consult with the parties identified in Rule 503.b.(7).
- (2) In the event the Director withholds approval of any Application for Permit-To-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, under this Rule 303.~~mj.~~, an operator may ask the Commission to issue an emergency order rescinding the Director's decision.

- nk. Suspending approved Permit-To-Drill, Form 2.** Prior to the spudding of the well, the Director shall suspend an approved Permit-to-Drill, Form 2, if the Director has reasonable cause to believe that information submitted on the Permit-to-Drill, Form 2 was materially incorrect. Under the circumstances described in Rule 303.i.(1) or (2), an operator may ask the Commission to issue an emergency order rescinding the Director's decision.
- el. Reclassification of stratigraphic well.** If a test for productivity is made in a stratigraphic well, the well must be reclassified as a well drilled for oil or gas and is subject to all of the rules and regulations for well drilled for oil or gas, including filing of reports and mechanical logs.
- pm. Provisions for avoiding mine sites.** Any person holding, or who has applied for, a permit issued or to be issued under §34-33-101 to 137, C.R.S., may at their election, notify the Director of such permit or application. Such notice shall include the name, mailing address and facsimile number of such person and designate by legal description the life-of-mine area permitted, or applied for, with the Division of Reclamation, Mining, and Safety. As soon as practicable after receiving such notice and designation, the Director shall inform the party designated therein each time that a Permit-to-Drill, Form 2, is filed with the Director which pertains to a well or wells located or to be located within said life-of-mine area as designated. The provisions of Rule 303.i.(1) and (2) will not be applicable to this rule.

### 305. NOTICE, COMMENT, APPROVAL

- a. Applicability.** The provisions of Rule 305.e regarding surface owners shall not apply to federal or Indian-owned surface lands.
- b. Posting.**
- (1) **Form 2A.** Upon receipt of an Oil and Gas Location Assessment, Form 2A, the Director shall, as provided by Rule 303.he, determine if the application is complete and, if so, post such Form 2A on the Commission's website. The Commission shall provide concurrent electronic notice of such posting to the relevant ~~local governmental designee~~ Local Governmental Designee (LGD) and ~~the Colorado Division of Wildlife~~ Parks and Wildlife (where consultation is triggered pursuant to Rule 306.c) and the Colorado Department of Public Health and Environment (where consultation is triggered pursuant to Rule 306.d). The website posting shall clearly indicate:
- A. The date on which the Form 2A was posted;
  - B. The date by which public comments must be received to be considered;
  - C. The address(es) to which the public may direct comments; and
  - D. Where the proposed ~~oil and gas location~~ Oil and Gas Location is covered by an accepted Comprehensive Drilling Plan, directions for review of the Plan.
- (2) **Form 2.** If an Application for Permit-to-Drill, Form 2, is concurrently filed with a Form 2A, that fact shall be noted in the posting provided herein. If a Form 2 is subsequently filed, only a summary notice of such filing, indicating that a Form 2A covering the well has been previously accepted or approved, shall be posted,

with concurrent notice to the local governmental designee and, where consultation with one of those agencies is triggered, the Colorado ~~Division of Wildlife~~Parks and Wildlife or Colorado Department of Public Health and Environment.

- c. **Comment period.** ~~The Director shall not approve the Form 2A, or any associated Form 2, for twenty (20) days from posting pursuant to Rule 305.b, and shall accept and post on the Commission's website immediately upon their receipt any comments received from the public, the local governmental designee, the Colorado Department of Public Health and Environment, or the Colorado Division of Wildlife regarding the proposed oil and gas location. The Director shall extend the comment period to thirty (30) days upon the written request during the twenty (20) day comment period by the local governmental designee, the Colorado Department of Public Health and Environment, the Colorado Division of Wildlife, the surface owner, or an owner of surface property who receives notice under Rule 305.e. The Director shall post the extension on the COGCC website within twenty-four (24) hours of receipt of the extension request.~~

(1) Exception Zone. The Director shall not approve a Form 2A, for a proposed wellhead or production facility within an Exception Zone for forty (40) days from posting pursuant to Rule 305.b, and shall accept and immediately post on the Commission's website any comments received from the public, the Local Governmental Designee, the Colorado Department of Public Health and Environment, or Colorado Parks and Wildlife regarding the proposed Oil and Gas Location. The Director may approve a Form 2A after twenty (20) days if he or she determines all Building Unit owners within the Exception Zone have consented or waived their right to consent.

(2) All Other Applications. Except as provided in subsection 305.c.(1) above, the Director shall not approve a Form 2A, or any associated Form 2, for twenty (20) days from posting pursuant to Rule 305.b, and shall accept and immediately post on the Commission's website any comments received from the public, the Local Governmental Designee, the Colorado Department of Public Health and Environment, or Colorado Parks and Wildlife regarding the proposed Oil and Gas Location. The Director shall extend the comment period to thirty (30) days upon the written request during the twenty (20) day comment period by the Local Governmental Designee, the Colorado Department of Public Health and Environment, Colorado Parks and Wildlife, the surface owner, or an owner of surface property who receives notice under Rule 305.e. The Director shall post the extension on the COGCC website within twenty-four (24) hours of receipt of the extension request.

- d. **Conditions of approval; issuance of permit.** Upon the conclusion of the comment period and, where applicable, consultation with ~~the~~ Colorado ~~Division of Wildlife~~Parks and Wildlife or Colorado Department of Public Health and Environment pursuant to Rules 306.c. or 306.d., respectively, the Director may attach technically feasible and economically practicable conditions of approval to the Form 2 or Form 2A as the Director deems necessary to implement the provisions of the Act or these rules pursuant to Commission staff analysis or to respond to legitimate concerns expressed during the comment period. Provided, that an applicant under Rule 503 who claims that such a condition is not technically feasible, economically practicable, or necessary to implement the provisions of the Act or these rules, or to respond to legitimate concerns shall have the burden of proof on that issue before the Commission.

- (1) **Notice of decision.** Upon making a decision on an Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, the Director shall promptly provide notification of the decision and any conditions of approval to the operator and to any party with standing to request a hearing before the Commission pursuant to Rule 503.b, unless such a party has waived in writing its right to such notice and the Director has been provided a copy of such waiver.
- (2) **Suspension of approval.** If a party with standing to do so requests a hearing before the Commission pursuant to Rule 503.b on an Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, then it shall notify the Director in writing within ten (10) days after the issuance of the decision, setting forth the basis for the objection. Upon receipt of such an objection, the Director shall suspend the approval of the Form 2 or Form 2A and set the matter for an expedited adjudicatory hearing. Such a hearing shall be expedited but will only be held after both the 20 days' notice and the newspaper notice are given as required by Section 34-60-108, C.R.S. However, the hearing can be held after the newspaper notice if all of the entities listed under Rule 503.b waive the 20-day notice requirement. If such an objection is not received, the permit shall issue as proposed by the Director.
- (3) **Appeal.** If the approval of a Form 2 or Form 2A is not suspended as provided for herein, the issuance of the approved Form 2 or Form 2A by the Director shall be deemed a final decision of the Commission, subject to judicial appeal.

~~e. **Landowner notice; copy of advance notice to Local Governmental Designee.** An operator making application for approval of an Oil and Gas Location Assessment, Form 2A, shall, upon receipt of a completeness determination from the Director, promptly provide the surface owner and owners of surface property within five hundred (500) feet of the proposed oil and gas location with the information set out in Rule 305.e.(1).A, below ("landowner notice"); provided that notice to the owners of surface property within five hundred (500) feet of the proposed oil and gas location shall not be required in an area covered by Rules 318A or 318B. This notice is in addition to the statutorily required notice to surface owners ("advance notice"), which must be provided thirty (30) days in advance of commencement of operations with heavy equipment for the drilling of a well. The operator may rely on the tax records of the assessor for the county in which the affected lands are located to identify the surface owner and the owners of surface property within five hundred (500) feet of the proposed oil and gas location for purposes of this section. A copy of the advance notice shall also be provided to the local government in whose jurisdiction the well is to be drilled, if such local government has registered its local governmental designee with the Commission. The notices required herein shall be accomplished by hand delivery or by certified mail, return receipt requested.~~

~~(1) **Content of notices.**~~

~~A. **Landowner OGLA Notice.** The landowner OGLA notice shall include the Form 2A itself (without attachments), a copy of the information required under Rule 303.dbdB.(3).B, 303.dbdB.(3).C, 303.dbdB.(3).EF, the COGCC's information sheet on hydraulic fracturing treatments and any additional information the operator deems appropriate. The OGLA Notice shall and inform the recipient that the complete application (including attachments) may be reviewed on the COGCC website and that he or she may submit comments to the Director, as provided on the COGCC website. The operator need not provide the COGCC's information sheet on hydraulic fracturing treatments where hydraulic fracturing treatments are not going to be applied to the well in question. For the surface owner, this notice shall include a copy of the COGCC Informational Brochure for Surface Owners, a postage-paid, return-addressed post card whereby the surface owner may request~~



~~consultation pursuant to Rule 306, and, where the Oil and Gas Location is not subject to a surface-use agreement, a copy of the COGCC Onsite Inspection Policy (See Appendix or COGCC website).~~

~~B. **Advance Notice.** The advance notice must provide the operator's name and contact information for a representative who may be contacted, describe on a site diagram or plat the proposed location of the well and any associated roads and production facilities, and indicate the expected date of commencement of operations with heavy equipment.~~

e. Notice

(1) **Surface Owner Notice.** Not less than thirty (30) days in advance of commencement of operations with heavy equipment for the drilling of a well, operators shall provide the statutorily required notice to the well site surface owner(s) as described below and the Local Governmental Designee in whose jurisdiction the well is to be drilled. Notice to the surface owner may be waived in writing by the surface owner.

A. Surface Owner Notice shall be delivered by hand or by certified mail, return-receipt requested.

B. The Surface Owner Notice must provide:

- i. The operator's name and contact information for the operator or its agent;
- ii. A site diagram or plat of the proposed well location and any associated roads and production facilities;
- iii. The date operations with heavy equipment are expected to commence;
- iv. A copy of the COGCC Informational Brochure for Surface Owners;
- v. A postage-paid, return-addressed post card whereby the surface owner may request consultation pursuant to Rule 306; and,
- vi. A copy of the COGCC Onsite Inspection Policy (See Appendix or COGCC website), where the Oil and Gas Location is not subject to a surface-use agreement.

(2) **Oil and Gas Location Assessment Notice ("OGLA Notice")** Upon receipt of a completeness determination from the Director, the Applicant for an Oil and Gas Location Assessment, Form 2A, shall promptly provide the information described below to the following parties:

A. Parties to be noticed:

- i. Owners of Building Units within the Exception Buffer Zone
- ii. Owners of surface property within five hundred (500) feet of the proposed Oil and Gas Location, for proposed Oil and Gas Locations not subject to Rule 318A or 318B.



The operator may rely on the tax records of the assessor for the county in which the affected lands are located to identify the persons entitled to receive the OGLA Notice.

B. The OGLA Notice shall be delivered by hand or by certified mail, return-receipt requested to owners of surface property or Building Units within Exception Zone-, unless an alternative method of notice is pre-approved by the Director.

C. The OGLA Notice shall include:

- i. The Form 2A itself (without attachments);
- ii. A copy of the information required under Rule 303.b.(3).C, 303.b.(3).D, 303.b.(3).F, and 303.b.(3).J.i.;
- iii. The COGCC's information sheet on hydraulic fracturing treatments except where hydraulic fracturing treatments are not going to be applied to the well in question; and
- iv. Any additional information the operator deems appropriate.

The OGLA Notice shall inform the recipient that the complete application (including attachments) may be reviewed on the COGCC website and that he or she may submit comments to the Director, as provided on the COGCC website.

(3) **Buffer Zone Notice.** Notice shall be provided by postcard to owners of Building Units within the Buffer Zone. Notice shall include operator contact information; general information about the proposed Oil and Gas Operations; the date, time and location of informational meetings regarding the proposed Oil and Gas Location that Building Unit owners may attend; that the complete Form 2A Application is available on the COGCC website; and that Building Unit owners may submit comments to the Director, as provided on the COGCC website. The operator may rely on the county assessor tax records to identify the persons entitled to receive the Buffer Zone Notice.

**(24) Appointment of agent.** The surface or Building Unit owner may appoint an agent, including its tenant, for purposes of subsequent notice and for consultation under Rule 306. Such appointment shall be made in writing to the operator and must provide the agent's name, address, and telephone number.

**(35) Tenants.** With respect to notices given under this Rule 305, it shall be the responsibility of the notified surface or Building Unit owner to give notice of the proposed operation to the tenant farmer, lessee, or other party that may own or have an interest in any crops or surface improvements that could be affected by such proposed operation.

**(46) Notice of subsequent well operations.** An operator shall provide to the surface owner or agent at least seven (7) days advance notice of subsequent well operations with heavy equipment that will materially impact surface areas beyond the existing access road or well site, such as recompletion or refracturing of the well.

**(57) Notice during irrigation season.** If a well is to be drilled on irrigated crop lands between March 1 and October 31, the operator shall contact the surface owner or agent at least fourteen (14) days prior to commencement of operations with

heavy equipment to coordinate drilling operations to avoid unreasonable interference with irrigation plans and activities.

(68) **Final reclamation notice.** Not less than thirty (30) days before any final reclamation operations are to take place pursuant to Rule 1004, the operator shall notify the surface owner. Final reclamation operations shall mean those reclamation operations to be undertaken when a well is to be plugged and abandoned or when production facilities are to be permanently removed. Such notice is required only where final reclamation operations commence more than thirty (30) days after the completion of a well.

(79) **Waiver.** Any of the notices required herein may be waived in writing by the surface owner, its agent, or the local governmental designee, provided that a waiver by a surface owner or its agent shall not prevent the surface owner or any successor-in-interest to the surface owner from rescinding that waiver if such rescission is in accordance with applicable law.

- f. **Posting Location Signage.** The operator shall, concurrent with the ~~advance~~ Surface Owner ~~Notice~~, post a sign not less than two- feet by two feet at the intersection of the lease road and the public road providing access to the well site, ~~of not less than two-feet by two-feet, providing with~~ the name of the proposed well, the legal location thereof, and the estimated date of commencement. Such sign shall be maintained until completion operations at the well are concluded.

### 306. CONSULTATION.

The operator shall consult in good faith ~~as provided below with:~~

- a. ~~Consultation with surface~~ Surface owners. In locating roads, production facilities, and well sites, or other oil and gas operations, and in preparation for reclamation and abandonment, the operator shall consult in good faith with the surface owner, or the surface owner's appointed agent as provided for in Rule 305. Such consultation shall occur at a time mutually agreed to by the parties prior to the commencement of operations with heavy equipment upon the lands of the surface owner.

(1) **Information provided by operator.** When consulting with the surface owner or appointed agent, the operator shall furnish a description or diagram of the proposed drilling location; dimensions of the drill site; topsoil management practices to be employed; and, if known, the location of associated production or injection facilities, pipelines, roads and any other areas to be used for oil and gas operations (if not previously furnished to such surface owner or if different from what was previously furnished).

(2) **Good faith consultation.** ~~Such good faith consultation shall allow the surface owner or appointed agent the opportunity to provide comments to the operator regarding preferences for the timing of oil and gas operations and preferred locations for wells and associated facilities.~~

The surface owner or appointed agent may comment on preferred locations for wells and associated production facilities, and on the preferred timing of oil and gas operations.

(3) **Waiver.** ~~The requirement to consult with the surface owner may be waived by the affected surface owner or the surface owner's appointed agent at any time by submittal to the operator in writing.~~

~~\_\_\_\_\_~~ The surface owner or the surface owner's appointed agent may waive their right to consult with the operator at any time. Such waiver must be in writing and submitted to the operator.

b. ~~Consultation with local~~ Local governments.

- (1) Local governments that have appointed a ~~local governmental designee~~ Local Governmental Designee and have indicated to the Director a desire for consultation shall be given an opportunity to ~~engage in such consultation concerning an application for consult with the Applicant on a~~ Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, for the location of roads, production facilities and well sites prior to the commencing of operations with heavy equipment.
- (2) Within fourteen (14) days of its notification pursuant to Rule 305, the ~~local governmental designee~~ Local Governmental Designee may notify the Commission and the Colorado Department of Public Health and Environment by electronic mail of its desire to have the Colorado Department of Public Health and Environment consult on a proposed ~~oil and gas location~~ Oil and Gas Location, based on concerns regarding public health, safety, welfare, or impacts to the environment.

c. ~~Consultation with the Colorado Division of Wildlife~~ Colorado Parks and Wildlife.

(1) **Consultation to occur.**

- A. Subject to the provisions of Rule 1202.d, ~~the Colorado Division of Wildlife~~ Parks and Wildlife shall consult with the Commission, the surface owner, and the operator on an Oil and Gas Location Assessment, Form 2A, where:
  - i. Consultation is required pursuant to a provision in the 1200-Series of these rules;
  - ii. The operator seeks a variance from a provision in the 1200-Series of these rules; or
  - iii. ~~The Colorado Division of Wildlife~~ Parks and Wildlife requests consultation because the proposed ~~oil and gas location~~ Oil and Gas Location would be within areas of known occurrence or habitat of a federally threatened or endangered species, as shown on the Colorado ~~Division of Wildlife~~ Parks and Wildlife Species Activity Mapping (SAM) system.
- B. The Commission shall consult with ~~the Colorado Division of Wildlife~~ Parks and Wildlife when an operator requests a modification of an existing Commission order to increase well density or otherwise proposes to increase well density to more than one (1) well per forty (40) acres, or the Commission develops a basin-wide order involving wildlife or wildlife-related environmental concerns or protections.

- C. Notwithstanding the foregoing, the requirement to consult with ~~the Colorado Division of Wildlife~~Parks and Wildlife may be waived by ~~the Colorado Division of Wildlife~~Parks and Wildlife at any time.

**(2) Procedure ~~for consultation~~.**

- A. The operator shall provide:
- i. A description of the oil and gas operation to be considered, including location;
  - ii. Any other relevant available information on the oil and gas operation, the affected wildlife resource, or the provision(s) of the 1200-Series Rules upon which the consultation is based; and
  - iii. Proposed mitigation for the affected wildlife resource.
- B. The Commission shall take into account the information submitted by the operator consistent with Rule 1202.c.
- C. The operator, the Commission, the surface owner, and ~~the Colorado Division of Wildlife~~Parks and Wildlife shall have forty (40) days to conduct the consultation called for in this section. Such consultation shall begin concurrent with the start of the public comment period. If no consultation occurs within such 40-day period, the requirement to consult shall be deemed waived, and the Director shall consider the operator's application on the basis of the materials submitted by the operator.

**(3) Results of consultation under Rule 306.c.**

- A. As a result of consultation called for in this subsection, ~~the Colorado Division of Wildlife~~Parks and Wildlife may make written recommendations to the Commission on conditions of approval necessary to minimize adverse impacts to wildlife resources. Where applicable, ~~the Colorado Division of Wildlife~~Parks and Wildlife may also make written recommendations on whether a variance request should be granted, under what conditions, and the reasons for any such recommendations.
- B. **Agreed-upon conditions of approval.** Where the operator, the Director, ~~the Colorado Division of Wildlife~~Parks and Wildlife, and the surface owner agree to conditions of approval for ~~oil and gas locations~~Oil and Gas Locations as a result of consultation, these conditions of approval shall be incorporated into approvals of an Oil and Gas Location Assessment, Form 2A, or Application for Permit-to-Drill, Form 2, where applicable.
- C. **Permit-specific conditions.** Where the consultation called for in this subsection results in permit-specific conditions of approval to minimize adverse impacts to wildlife resources, the Director shall attach such permit-specific conditions only with the consent of the affected surface owner.
- D. **Standards for consultation and initial decision.** Following consultation and subject to subsection C above and Rule 1202.c, the Director shall decide whether to attach conditions of approval to a Form 2A or Form 2, where

applicable. In making this decision, the Director shall apply the criteria of Rule 1202.

E. **Notification of decision to consulting agency.** Where consultation occurs under Rule 306.c, the Director shall provide to ~~the Colorado Division of Wildlife~~Parks and Wildlife the conditions of approval for the Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, on the same day that he or she announces a decision to approve the application.

d. ~~Consultation with the Colorado Department of Public Health and Environment.~~

(1) **Consultation to occur.**

A. The Commission shall consult with the Colorado Department of Public Health and Environment on an Oil and Gas Location Assessment, Form 2A, where:

i. ~~The local governmental designee requests, within fourteen (14) days of notice, Within fourteen (14) days of notification pursuant to Rule 305, the Local Governmental Designee requests,~~ the participation of the Colorado Department of Public Health and Environment in the Commission's consideration of an Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, based on concerns regarding public health, safety, welfare, or impacts to the environment;

ii. The operator seeks from the Director a variance from, or consultation is otherwise required or permitted under, a provision of one of the following rules intended for the protection of public health, safety, welfare, or the environment:

aa. Rule 317B. Public Water System Protection;

bb. Rule 325. Underground Disposal of Water;

cc. Rule 603. Statewide Location Requirements for Oil and Gas Facilities, Drilling, and Well Servicing Operations; ~~Drilling and Well Servicing Operations and High Density Area Rules~~;

dd. Rule 604. Location Requirements for Oil and Gas Facilities, Drilling, and Well Servicing Operations in Designated Buffer Zone;

~~de~~ee. Rule 608. Coalbed Methane Wells;

~~ee~~ff. Rule 805. Odors and Dust;

~~ff~~gg. 900-Series E&P Waste Management; or

~~gg~~hh. Rule 1002.f. Stormwater Management.

All requests for variances from these rules must be made at the time an operator submits a Form 2A.

- B. The Commission shall consult with the Colorado Department of Public Health and Environment when an operator requests a modification of an existing Commission order to increase well density or otherwise proposes to increase well density to more than one (1) well per forty (40) acres, or the Commission develops a basin-wide order that can reasonably be anticipated to have impacts on public health, welfare, safety, or environmental concerns or protections.
- C. Notwithstanding the foregoing, the requirement to consult with the Colorado Department of Public Health and Environment may be waived by the Colorado Department of Public Health and Environment at any time.

(2) **Procedure ~~for consultation~~.**

- A. Where required, the Commission and the Colorado Department of Public Health and Environment shall have forty (40) days to conduct the consultation called for in this section. Such consultation shall begin concurrent with the start of the public comment period. If no consultation occurs within such 40-day period, the requirement to consult shall be waived, and the Director shall consider the operator's application on the basis of the materials submitted by the operator.
- B. The consultation called for in this section shall focus on identifying potential impacts to public health, safety, welfare, or the environment from activities associated with the proposed **Oil and Gas Location**, and development of conditions of approval or other measures to minimize adverse impacts.
- C. Where consultation occurs pursuant to Rule 306.d.(1).A, it may include:
  - i. Review of the permit application;
  - ii. Discussions with the local governmental designee to better understand local government's concerns;
  - iii. Discussions with the Commission, operator, surface owner, or those potentially affected; and
  - iv. Review of public comments.
- D. Where consultation occurs pursuant to Rule 306.d.(1).A.ii, the Colorado Department of Public Health and Environment shall have the opportunity to:
  - i. Review the permit application, the request for variance, and the basis for the request; and
  - ii. Discuss the request with the operator, the surface owner, and the Commission.
- E. Where consultation occurs pursuant to Rule 306.d.(1).B, the Colorado Department of Public Health and Environment shall have the opportunity to:

- i. Review the well-density increase application or draft Commission order; and
- ii. Discuss the request with the operator or proponent, the Commission, and the local governmental designee.

(3) **Results of consultation under Rule 306.d.**

- A. As a result of consultation called for in this subsection, the Colorado Department of Public Health and Environment may make written recommendations to the Commission on conditions of approval necessary to protect public health, safety, and welfare or the environment. Such recommendations may include, but are not limited to, monitoring requirements or best management practices. Where applicable, the Colorado Department of Public Health and Environment may also make written recommendations on whether a variance request should be granted, under what conditions, and the reasons for any such recommendations.
- B. **Agreed-upon conditions of approval.** Where the operator, the Director, the Colorado Department of Public Health and Environment, and the surface owner agree to conditions of approval for [Oil and Gas Locations](#) as a result of consultation, these conditions of approval shall be incorporated into approvals of an Oil and Gas Location Assessment, Form 2A, or Applications for Permit-to-Drill, Form 2, where applicable.
- C. **Standards for consultation and Director decision.** Following consultation, the Director shall decide whether to attach conditions of approval recommended by the Colorado Department of Public Health and Environment to a Form 2A or Form 2, where applicable. This decision shall minimize significant adverse impacts to public health, safety, and welfare, including the environment, consistent with other statutory obligations.
- D. **Notification of decision to consulting agency.** Where consultation occurs under Rule 306.d, the Director shall provide to the Colorado Department of Public Health and Environment the conditions of approval for the Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, on the same day that he or she announces a decision to approve the application.

**e. Meetings with Building Unit Owners.**

- (1) **Exception Zone.** For Oil and Gas Operations proposed within the Exception Zone, as defined in Rule 604.a.(1), the operator shall confer with Building Unit owners or their appointed agents regarding the proposed Oil and Gas Location or Facilities, and shall discuss the subjects identified in subsection (3), below.
- (2) **Buffer Zone.** For Oil and Gas Operations proposed within the Buffer Zone, as defined in Rule 604.a.(2), the operator shall hold informational meetings for Building Unit owners or their appointed agents within the Buffer Zone. Such informational meetings may be held on an individual basis, in small groups, or in larger community meetings. If an operator chooses to hold community meetings, at least two meetings shall be held at times that allow persons who have regular



work schedules (between 8:00 a.m. and 6:00 p.m.) to attend and at a location convenient to attendees.

(3) **Information provided by operator.** When conferring or meeting with Building Unit owners or their appointed agent or tenant(s) pursuant to subsections (1) and (2), above, the operator shall provide the following information: the date construction is anticipated to begin; the anticipated duration of pad construction, drilling and completion activities; the types of equipment anticipated to be present on the Location; and the operator's interim and final reclamation obligation. In addition, the operator shall present a description and diagram of the proposed Oil and Gas Location that includes the dimensions of the Location and the anticipated layout of production or injection facilities, pipelines, roads and any other areas to be used for oil and gas operations. The operator and Building Unit owners shall discuss potential issues associated with Oil and Gas Operations, such as noise, light, odors, dust, and traffic, and shall provide information on proposed mitigation measures to eliminate, minimize or mitigate those issues.

(4) **Waiver.** The Building Unit owner or agent may waive the foregoing meeting requirements. Any such waiver shall be in writing, and shall be submitted by the Building Unit owner or agent to the operator. If a Building Unit subject to consultation is tenant-occupied, the waiver shall be ratified by the tenant(s). No additional tenant consultation shall be required if tenants change in the time period between required consultation and commencement of operations.

(5) **Mitigation Measures.** Any mitigation measures proposed by or agreed to by the Operator shall be included on the Form 2 or Form 2A.

(6) **Operator Certification.** The Director shall not approve a Form 2A, Oil and Gas Location Assessment, until the operator certifies it has complied with this consultation requirement.

**ef. Final reclamation consultation.** In preparing for final reclamation and plugging and abandonment, the operator shall use its best efforts to consult in good faith with the affected surface owner (or the tenant when the surface owner has requested that such consultation be made with the tenant). Such good faith consultation shall allow the surface owner (or appointed agent) the opportunity to provide comments concerning preference for timing of such operations and all aspects of final reclamation, including, but not limited to, the desired final land use and seed mix to be applied.

**fg. Tenants.** Operators shall have no obligation to consult with tenant farmers, lessees, or any other party that may own or have an interest in any crops or surface improvements that could be affected by the proposed operation unless the surface owner appoints such person as its agent for such purposes. Nothing shall prevent the surface owner from including a tenant in any consultation, whether or not appointed as the surface owner's agent.

## SERIES SAFETY REGULATIONS

### 602. GENERAL

The training and action of employees, as well as proper location and operation of equipment is an important part of any safety program. While this section is general in nature, it is considered a basic part of the foundation of any safety program.

- a. Employees shall be familiarized with these rules and regulations as provided herein as they relate to their function in their respective jobs. Each new employee should have his job outlined, explained and demonstrated.
- b. Unsafe and potentially dangerous conditions as defined by these rules, should be reported immediately by employees to the supervisor in charge and shall be remedied as soon as practical. Any accident involving injury to wellsite personnel or to a member of the general public which requires medical treatment or significant damage to equipment or the wellsite shall be reported to the Director as soon as practicable, but in no event later than twenty-four (24) hours after the accident. A COGCC Accident Report, Form 22, shall be submitted to the Director within ten (10) days of the accident. Accidents that require only first aid treatment are not subject to these reporting requirements.

Where unsafe or potentially dangerous conditions exist, the owner or operator shall respond as directed by an agency with demonstrated authority to do so (such as sheriff, fire district director, etc.).

- c. Vehicles of persons not involved in drilling, production, servicing, or seismic operations shall be located a minimum distance of one hundred (100) feet from the wellbore, or a distance equal to the height of the derrick or mast, whichever is greater. Equivalent safety measures shall be taken where terrain, location or other conditions do not permit this minimum distance requirements.
- d. Existing wells, not including previously plugged and abandoned wells, are exempt from the provisions of these regulations as they relate to the location of the well.
- e. Existing producing facilities shall be exempt from the provisions of these regulations with respect to minimum distance requirements and setbacks unless they are found by the Director to be unsafe.
- f. Self-contained sanitary facilities shall be provided during drilling operations and at any other similarly staffed oil and gas operations facility.

### 603. ~~DRILLING AND WELL SERVICING OPERATIONS AND HIGH DENSITY AREA RULES~~ STATEWIDE LOCATION REQUIREMENTS FOR OIL AND GAS FACILITIES, AND DRILLING, AND WELL SERVICING OPERATIONS

- a. **Statewide setbacks.** ~~Subparagraph (1) below shall apply to all areas of the state except as provided under subparagraphs b. and e. of this rule. Subparagraph (2) below shall apply to all areas of the state.~~

~~(1) At the time of initial drilling of the well, the wellhead shall be located a distance of one hundred fifty (150) feet or one and one-half (1-1/2) times the height of the derrick,~~

~~whichever is greater, from any building unit, public road, major above ground utility line, or railroad.~~

(1) –At the time of initial drilling, a well shall be located not less than two hundred (200) feet from buildings, public roads, major above ground utility lines, or railroads. Building Units and Designated Outside Activity Areas are subject to Rule 604.

(2) A well shall be ~~a minimum distance of~~ located not less than one hundred fifty (150) feet from a surface property line. The Director may grant an exception if it is not feasible for the operator to meet this minimum distance requirement and a waiver is obtained from the offset surface owner(s). An exception request letter stating the reasons for the exception shall be submitted to the Director and accompanied by a signed waiver(s) from the offset surface owner(s). Such waiver shall be written and filed in the county clerk and recorder's office and with the Director.

~~b. **High density area rules for building units.** A high density area shall be determined at the time the well is permitted on a well-by-well basis by calculating the number of building units within the seventy-two (72) acre area defined by a one thousand (1000) foot radius from the wellhead or production facility. If thirty-six (36) or more actual or platted building units (as defined in the 100 Series rules) are within the one thousand (1000) foot radius or eighteen (18) or more building units are within any semi-circle of the one thousand (1000) foot radius (i.e., an average density of one (1) building unit per two (2) acres), it shall be deemed a high density area. If platted building units are used to determine the density, then fifty percent (50%) of said platted units shall have building units under construction or constructed.~~

~~c. **High density area rules for other facilities.** If an educational facility, assembly building, hospital, nursing home, board and care facility, or jail is located within one thousand (1000) feet of a wellhead or production facility, high density area rules shall apply.~~

~~d. **Designated outside activity area.** The Commission, upon application and hearing, shall determine the appropriate boundary and setbacks for a designated outside activity area as defined in the 100 Series rules. The minimum setback from the boundary of the designated outside activity area shall be three hundred fifty (350) feet.~~

~~e. The following rules shall apply in high density and designated outside activity areas:~~

~~(1) **Provisions for encroaching development.** If, by virtue of subsequent future surface development, an area becomes a high density area, subsections (2), (3), (7) and (14) shall not apply to the operator.~~

~~(2) **Setbacks for wellheads.** At the time of initial drilling of the well, the wellhead location shall be not less than three hundred fifty (350) feet from any building unit, educational facility, assembly building, hospital, nursing home, board and care facility, or jail.~~

~~(3) **Setbacks for production equipment.** At the time of initial installation or construction, production tanks, pits, or associated on-site production equipment shall be located not less than three hundred fifty (350) feet from any building unit. Such production tanks, pits, or associated on-site production equipment shall be located five hundred (500) feet from an educational facility, assembly building, hospital, nursing home, board and care facility, jail or designated outside activity area. However, such five hundred (500) foot setback shall be decreased to the maximum achievable setback if five hundred (500) feet would extend beyond the area on which the operator has a legal right to place or construct such facilities.~~

~~Should the operator object to such five hundred (500) foot setback for any reason, a variance hearing shall be conducted at the next regularly scheduled meeting of the Commission, subject to the notice requirements of Rule 507.~~

- ~~(4) A. **Blowout preventer equipment ("BOPE" ) for high density area drilling operations.** Blowout prevention equipment for drilling operations shall consist of (at a minimum):~~

~~i. **Rig with Kelly.** Double ram with blind ram and pipe ram; annular preventer or a rotating head.~~

~~ii. **Rig without Kelly.** Double ram with blind ram and pipe ram.~~

~~Mineral Management certification or Director approved training for blowout prevention shall be required for at least one (1) person at the wellsite during drilling operations.~~

~~B. **BOPE testing for high density area drilling operations.** Upon initial rig-up and at least once every thirty (30) days during drilling operations thereafter, pressure testing of the casing string and each component of the blowout prevention equipment including flange connections shall be performed to seventy percent (70%) of working pressure or seventy percent (70%) of the internal yield of casing, whichever is less. Pressure testing shall be conducted and the documented results shall be retained by the operator for inspection by the Director for a period of one (1) year. Activation of the pipe rams for function testing shall be conducted on a daily basis when practicable.~~

~~C. **Pit level indicators.** Pit level indicators shall be used.~~

~~D. **Drill stem tests.** Closed chamber drill stem tests shall be allowed in high density areas. All other drill stem tests shall require approval by the Director.~~

- ~~(5) A. **BOPE for well servicing operations.** Adequate blowout prevention equipment shall be used on all well servicing operations.~~

~~B. **Backup stabbing valves shall be required on well servicing operations during reverse circulation.** Valves shall be pressure tested before each well servicing operation using both low pressure air and high pressure fluid.~~

- ~~(6) **Location requirement exceptions and waivers.** Exceptions to the location requirements set out in (2) and (3) above shall be granted by the Director if the Director determines that Rule 318 has been complied with and that a copy of waivers from each person owning a building unit or building permitted for construction within three hundred fifty (350) feet of the proposed oil and gas location is submitted as part of the Form 2, and that the proposed location complies with all other safety requirements of the rules and regulations.~~

- ~~(7) **Fencing requirements.** At the time of initial installation, if a wellsite falls within a high density area, all pumps, pits, wellheads and production facilities shall be adequately fenced to restrict access by unauthorized persons. For security purposes, all such facilities and equipment used in the operation of a completed well shall be surrounded by a fence six (6) feet in height, constructed in conformance with local written standards as long as the material is non-combustible and allows for adequate ventilation, and the gate(s) shall be locked.~~

- ~~(8) **Control of fire hazards.** Any material not in use that might constitute a fire hazard shall be removed a minimum of twenty-five (25) feet from the wellhead, tanks and separator. Any electrical equipment installations inside the bermed area shall comply with API RP 500 classifications and comply with the current national electrical code as adopted by the State of Colorado.~~
- ~~(9) **Loadlines.** In high density areas, all loadlines shall be bullplugged or capped.~~
- ~~(10) **Removal of surface trash.** All surface trash, debris, scrap or discarded material connected with the operations of the property shall be removed from the premises or disposed of in a legal manner.~~
- ~~(11) **Guy line anchors.** All guy line anchors left buried for future use shall be identified by a marker of bright color not less than four (4) feet in height and not greater than one (1) foot east of the guy line anchor.~~
- ~~(12) **Berm construction.** Berms or other secondary containment devices in high density areas shall be constructed around crude oil, condensate, and produced water storage tanks and shall enclose an area sufficient to contain and provide secondary containment for one hundred fifty percent (150%) of the largest single tank. Berms or other secondary containment devices shall be sufficiently impervious to contain any spilled or released material. No more than two (2) crude oil or condensate storage tanks shall be located within a single berm. All berms and containment devices shall be inspected at regular intervals and maintained in good condition. No potential ignition sources shall be installed inside the secondary containment area unless the containment area encloses a fired vessel. Refer to American Petroleum Institute Recommended Practices, API RP D16.~~
- ~~(13) **Tank specifications.** All newly installed or replaced crude oil and condensate storage tanks in high density areas shall be designed, constructed, and maintained in accordance with National Fire Protection Association (NFPA) Code 30 (2008 version). The operator shall maintain written records verifying proper design, construction, and maintenance, and shall make these records available for inspection by the Director. Only the 2008 version of NFPA Code 30 applies to this rule. This rule does not include later amendments to, or editions of, the NFPA Code 30. NFPA Code 30 may be examined at any state publication depository library. Upon request, the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203, will provide information about the publisher and the citation to the material.~~
- ~~(14) **Access roads.** If a wellsite falls within a high density area at the time of construction, all leasehold roads shall be constructed to accommodate local emergency vehicle access requirements, and shall be maintained in a reasonable condition.~~
- ~~(15) **Well site cleared.** Within ninety (90) days after a well is plugged and abandoned, the well site shall be cleared of all non-essential equipment, trash, and debris. For good cause shown, an extension of time may be granted by the Director.~~
- ~~(16) **Identification of plugged and abandoned wells in high density areas.** The operator shall identify the location of the wellbore with a permanent monument as specified in Rule 319.a.(5). The operator shall also inscribe or imbed the well number and date of plugging upon the permanent monument.~~

~~(17) **Development from existing well pads.** Where possible, operators shall provide for the development of multiple reservoirs by drilling on existing pads or by multiple completions or commingling in existing wellbores (see Rule 322). If any operator asserts it is not possible to comply with, or requests relief from, this requirement, the matter shall be set for hearing by the Commission and relief granted as appropriate.~~

**fb. Statewide rig floor safety valve requirements.** When drilling or well servicing operations are in progress on a well where there is any indication the well will flow hydrocarbons, either through prior records or present conditions, there shall be on the rig floor a safety valve with connections suitable for use with each size and type of tool joint or coupling being used on the job.

**gc. Statewide static charge requirements.** Rig substructure, derrick, or mast shall be designed and operated to prevent accumulation of static charge.

**hd. Statewide well servicing pressure check requirements.** Prior to initiating well servicing operations, the well shall be checked for pressure and steps taken to remove pressure or operate safely under pressure before commencing operations.

**ie. Statewide well control equipment and other safety requirements.** Well control equipment and other safety requirements are:

- (1) When there is any indication that a well will flow, either through prior records, present well conditions, or the planned well work, blowout prevention equipment shall be installed in accordance with Rule 317 or any special orders of the Commission.
- (2) Blowout prevention equipment when required by Rule 317 shall be in accordance with API RP 53: Recommended Practices for Blowout Prevention Equipment Systems, or amendments thereto.
- (3) While in service, blowout prevention equipment shall be inspected daily and a preventer operating test shall be performed on each round trip, but not more than once every twenty-four (24) hour period. Notation of operating tests shall be made on the daily report.
- (4) All pipe fittings, valves and unions placed on or connected with blowout prevention equipment, well casing, casinghead, drill pipe, or tubing shall have a working pressure rating suitable for the maximum anticipated surface pressure and shall be in good working condition as per generally accepted industry standards.
- (5) Blowout prevention equipment shall contain pipe rams that enable closure on the pipe being used. The choke line(s) and kill line(s) shall be anchored, tied or otherwise secured to prevent whipping resulting from pressure surges.
- (6) Pressure testing of the casing string and each component of the blowout prevention equipment, if blowout prevention equipment is required, shall be conducted prior to drilling out any string of casing except conductor pipe. The minimum test pressure shall be five hundred (500) psi, and shall hold for fifteen (15) minutes without pressure loss in order for the casing string to be considered serviceable. Upon demand the operator shall provide to the Commission the pressure test evidence. Drilling operations shall not proceed until blowout prevention equipment is tested and found to be serviceable.



- (7) If the blind rams are closed for any purpose except operational testing, the valves on the choke lines or relief lines below the blind rams should be opened prior to opening the rams to bleed off any pressure.
- (8) All rig employees shall have adequate understanding of and be able to operate the blowout prevention equipment system. New employees shall be trained in the operation of blowout prevention systems as soon as practicable to do so.
- (9) Drilling contractors shall place a sign or marker at the point of intersection of the public road and rig access road.
- (10) The number of the public road to be used in accessing the rig along with all necessary emergency numbers shall be posted in a conspicuous place on the drilling rig.

**j. Statewide equipment, weeds, waste, and trash requirements.** All locations, including wells and surface production facilities, shall be kept free of the following: equipment, vehicles, and supplies not necessary for use on that lease; weeds; rubbish, and other waste material. The burning or burial of such material on the premises shall be performed in accordance with applicable local, state, or federal solid waste disposal regulations and in accordance with the 900-Series Rules. In addition, material may be burned or buried on the premises only with the prior written consent of the surface owner.

**kg. Statewide equipment anchoring requirements.** All equipment at drilling and production sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement, or subsidence.

#### **604. LOCATION REQUIREMENTS FOR OIL AND GAS FACILITIES, DRILLING, AND WELL SERVICING OPERATIONS IN DESIGNATED BUFFER ZONES** **OIL AND GAS FACILITIES**

##### **a. Designated Buffer Zones**

**(1) Exception Zone.** Any proposed Oil and Gas Location with a wellhead or production facility located 350 feet or less from a Building Unit shall constitute an Exception Zone location. Except as provided in subsection (3), below, the Director shall not approve a Form 2 or Form 2A proposing to locate a wellhead or a production facility within the Exception Zone unless all Building Unit owners within the Exception Zone consent in writing to the proposed locations of any wellhead(s) and production facility(ies) within the Exception Zone and the Applicant certifies it has complied with Rule 306.e.

**(2) Buffer Zone.** Any proposed Oil and Gas Location with a wellhead or production facility located 1000 feet or less from a Building Unit shall constitute a Buffer Zone Location. The Director shall not approve a Form 2 or Form 2A proposing to locate a wellhead or a production facility within the Buffer Zone until the Applicant certifies it has complied with Rule 306.e.

**(3) High Occupancy Building Unit Zone.** Commission approval is required for any Form 2 or Form 2A proposing to locate a wellhead or production facility within seven hundred fifty (750) feet of High Occupancy Building Unit. The Director may approve a Form 2 or Form 2A proposing to locate a wellhead or production facility more than seven hundred fifty (750) feet from a High Occupancy Building Unit, provided the Applicant certifies it has complied with Rule 306.e., if applicable.



(4) **Designated Outside Activity Area Zone.** The minimum setback from the boundary of a Designated Outside Activity area shall be three hundred fifty (350) feet. The Commission, in its discretion, may establish a setback of greater than three hundred fifty (350) feet based on the totality of circumstances.

b. **Exceptions for Existing Locations.** The Director may grant an exception to any setback or consent requirement within a Designated Buffer Zone when a well or production facility is proposed to be added to an existing or approved Oil and Gas Location if the Director determines alternative locations outside the applicable setback are technically or economically impracticable; mitigation measures imposed in the Form 2 or Form 2A will eliminate, minimize or mitigate noise, odors, light, dust, and similar nuisance conditions to the maximum extent reasonably achievable; the proposed location complies with all other safety requirements of these Commission Rules; and:

(1) The Oil and Gas Location is located within a Designated Buffer -Zone solely as a result of Building Units constructed after the Oil and Gas Location was approved by the Director; or

(2) An existing or approved Oil and Gas Location is within a Designated Buffer Zone solely as a result of the adoption of Rule 604.a., above, which established the Designated Buffer Zones.

c. **Buffer Zone Mitigation Measures.** The following rules shall apply in the Exception Zone, the Buffer Zone, within 1000 feet of a High Occupancy Building, and within 700 feet of a Designated Outside Activity Area:

(1) **Provisions for future encroaching development.** If a location comes within a Designated Buffer Zone solely as a result of surface development after well pad construction begins or production equipment has been placed, subsections (5) and (12) shall not apply to the operator.

(2) **Location Specific Requirements.** During Rule 306 consultation, the operator shall develop a location-specific mitigation plan to address the following:

A. **Daylight Operations.**

In Exception Zone locations, daylight operations are required after casing is set, except in emergencies. The Director may waive this requirement if Building Unit owners within the Exception Zone consent to 24-hour operations.

B. **Noise.**

i. Baseline noise levels at the proposed Oil and Gas Location shall be determined and reported to the Director prior to commencement of operations with heavy equipment. Baseline noise levels shall be evaluated with time and decibel (dB) scale measurement during daylight working hours, evening non-working hours, and nighttime sleeping hours. Baseline noise data shall be furnished to all parties during Rule 306.e. consultations.

ii. Operations involving pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover

rig, or stimulation is subject to the maximum permissible noise levels for Light Industrial Zones, as measured at the nearest Building Unit. Short-term increases shall be allowable as described in 802.c. For purposes of this subsection, the noise level shall be measured at the closest position of a building unit to the oil and gas operation

#### **C. Pits.**

- i. Except fresh water storage pits, reserve pits to drill surface casing, and emergency pits as defined in the 100-Series Rules, pits are not allowed on Oil and Gas Locations within Designated Buffer Zones.
- iii. Fresh water pits within the Exception Zone shall require prior approval of a Form 15 pit permit. In the Buffer Zone, fresh water pits shall be reported within 30-days of pit construction.
- iv. Fresh water storage pits within the Designated Buffer Zones shall be conspicuously posted with signage identifying the pit name, the operator's name and contact information, and stating that no fluids other than fresh water are permitted in the pit. Produced water, recycled E&P waste, or flowback fluids are not allowed in fresh water storage pits.
- v. Fresh water storage pits within the Designated Buffer Zones shall include emergency escape provisions for inadvertent human access.

#### **D. Emission Control Systems.**

- i. Gas gathering lines, separators, and sand traps capable of supporting green completions as described in Rule 805 shall be installed at any Oil and Gas Location at which commercial quantities of gas are reasonable expected to be produced based on existing adjacent wells within 1 mile.
- ii. Temporary flowback flaring and oxidizing equipment shall include the following:
  - aa. Adequately sized equipment to handle 1.5 times the largest flowback volume of gas experienced in a ten (10) mile radius;
  - bb. Valves and porting available to divert gas to temporary equipment or to permanent flaring and oxidizing equipment; and

cc. Auxiliary fueled with sufficient supply and heat to combust or oxidize non-combustible gases in order to control odors and hazardous gases.

E. Traffic Plan. A traffic plan shall be coordinated with the local jurisdiction prior to commencement of move in and rig up. Any subsequent modification to the traffic plan must be coordinated with the local jurisdiction.

F. Multiwell Pads.

i. Where technologically feasible and economically practicable, operators shall consolidate wells to create multi-well pads, including shared locations with other operators. Multi-well production facilities shall be located as far as possible from Building Units.

ii. The pad shall be constructed in such a manner that noise mitigation may be installed and removed without disturbing the site or landscaping.

iii. Pads shall have all weather access roads to allow for operator and emergency response.

(3) A. Blowout preventer equipment ("BOPE") for Designated Buffer Zone ~~high density area~~ drilling operations. Blowout prevention equipment for drilling operations in a Designated Buffer Zone shall consist of (at a minimum):

i. ~~Rig with Kelly.~~ Double ram with blind ram and pipe ram; annular preventer or a rotating head.

ii. ~~Rig without Kelly.~~ Double ram with blind ram and pipe ram.

Mineral Management certification or Director approved training for blowout prevention shall be required for at least one (1) person at the well site during drilling operations.

B. BOPE testing for Designated Buffer Zone ~~high density area~~ drilling operations. Upon initial rig-up and at least once every thirty (30) days during drilling operations thereafter, pressure testing of the casing string and each component of the blowout prevention equipment including flange connections shall be performed to seventy percent (70%) of working pressure or seventy percent (70%) of the internal yield of casing, whichever is less. Pressure testing shall be conducted and the documented results shall be retained by the operator for inspection by the Director for a period of one (1) year. Activation of the pipe rams for function testing shall be conducted on a daily basis when practicable.

C. Pit level indicators. Pit level indicators shall be used.

D. **Drill stem tests.** Closed chamber drill stem tests shall be allowed in Designated Buffer Zones ~~high density area~~. All other drill stem tests shall require approval by the Director.

(4) A. **BOPE for well servicing operations.** Adequate blowout prevention equipment shall be used on all well servicing operations.

B. **Backup stabbing valves shall be required on well servicing operations during reverse circulation.** Valves shall be pressure tested before each well servicing operation using both low-pressure air and high-pressure fluid.

~~(6)~~(5) **Fencing requirements.** Unless otherwise requested by the surface owner, ~~At the time of initial installation, if a well sites falls~~ constructed within Designated Buffer Zones, ~~all pumps, pits, wellheads and production facilities~~ shall be adequately fenced to restrict access by unauthorized persons. For security purposes, all such facilities and equipment used in the operation of a completed well shall be surrounded by a fence six (6) feet in height, constructed in conformance with local written standards as long as the material is non-combustible and allows for adequate ventilation, and the gate(s) shall be locked.

~~(6)~~(7) **Control of fire hazards.** Any material not in use that might constitute a fire hazard shall be removed a minimum of twenty-five (25) feet from the wellhead, tanks and separator. Any electrical equipment installations inside the bermed area shall comply with API RP 500 classifications and comply with the current national electrical code as adopted by the State of Colorado.

~~(8)~~(7) **Loadlines.** In Designated Buffer Zones, all loadlines shall be bullplugged or capped.

~~(9)~~(8) **Removal of surface trash.** All surface trash, debris, scrap or discarded material connected with the operations of the property shall be removed from the premises or disposed of in a legal manner.

~~(9)~~(10) **Guy line anchors.** All guy line anchors left buried for future use shall be identified by a marker of bright color not less than four (4) feet in height and not greater than one (1) foot east of the guy line anchor.

~~(10)~~(4) **Berm construction.** Berms or other secondary containment devices in Designated Buffer Zones shall be constructed around crude oil, condensate, and produced water storage tanks and shall enclose an area sufficient to contain and provide secondary containment for one-hundred fifty percent (150%) of the largest single tank. Berms or other secondary containment devices shall be sufficiently impervious to contain any spilled or released material. No more than two (2) crude oil or condensate storage tanks shall be located within a single berm. All berms and containment devices shall be inspected at regular intervals and maintained in good condition. No potential ignition sources shall be installed inside the secondary containment area unless the containment area encloses a fired vessel. Refer to American Petroleum Institute Recommended Practices, API RP - D16.

~~(11)~~(2) **Tank specifications.** All newly installed or replaced crude oil and condensate storage tanks in Designated Buffer Zones shall be designed, constructed, and maintained in accordance with National Fire Protection Association (NFPA) Code 30 (2008 version). The operator shall maintain written records verifying proper

design, construction, and maintenance, and shall make these records available for inspection by the Director. Only the 2008 version of NFPA Code 30 applies to this rule. This rule does not include later amendments to, or editions of, the NFPA Code 30. NFPA Code 30 may be examined at any state publication depository library. Upon request, the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203, will provide information about the publisher and the citation to the material.

(123) **Access roads.** If a well site falls within a Designated Buffer Zones at the time of construction, all leasehold roads shall be constructed to accommodate local emergency vehicle access requirements, and shall be maintained in a reasonable condition.

(134) **Well site cleared.** Within ninety (90) days after a well is plugged and abandoned, the well site shall be cleared of all non-essential equipment, trash, and debris. For good cause shown, an extension of time may be granted by the Director.

(154) **Identification of plugged and abandoned wells in Designated Buffer Zones~~high density areas~~.** The operator shall identify the location of the wellbore with a permanent monument as specified in Rule 319.a.(5). The operator shall also inscribe or imbed the well number and date of plugging upon the permanent monument.

(165) **Development from existing well pads.** Where possible, operators shall provide for the development of multiple reservoirs by drilling on existing pads or by multiple completions or commingling in existing wellbores (see Rule 322). If any operator asserts it is not possible to comply with, or requests relief from, this requirement, the matter shall be set for hearing by the Commission and relief granted as appropriate.

**604**

## **605. OIL AND GAS FACILITIES.**

### **a. Crude Oil and Condensate Tanks.**

(1) Atmospheric tanks used for crude oil storage shall be built in accordance with the following standards as applicable. Only those editions of standards cited within this rule shall apply to this rule; later amendments do not apply. The material cited in this rule is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. In addition, these materials may be examined at any state publication depository library.

- A. Underwriters Laboratories, Inc., No. UL-142, "Standard for Steel above ground Tanks for Flammable and Combustible Liquids," 9th Edition (December 28, 2006);
- B. American Petroleum Institute Standard No. 650, "Welded Steel Tanks for Oil Storage," 11<sup>th</sup> Edition (June 2007);
- C. American Petroleum Institute Standard No. 12B, "Bolted Tanks for Storage of Production Liquids," 15<sup>th</sup> Edition (October 2008, effective March 31, 2009);

- D. American Petroleum Institute Standard No. 12D, "Field Welded Tanks for Storage of Production Liquids," 11<sup>th</sup> Edition (October 2008, effective March 31, 2009); or
  - E. American Petroleum Institute Standard No. 12F, "Shop Welded Tanks for Storage of Production Liquids," 12<sup>th</sup> Edition (October 2008, effective March 31, 2009).
- (2) Tanks shall be located at least two (2) diameters or three hundred fifty (350) feet, whichever is smaller, from the boundary of the property on which it is built. Where the property line is a public way the tanks shall be two thirds (2/3) of the diameter from the nearest side of the public way or easement.
    - A. Tanks less than three thousand (3,000) barrels capacity shall be located at least three (3) feet apart.
    - B. Tanks three thousand (3,000) or more barrels capacity shall be located at least one-sixth (1/6) the sum of the diameters apart. When the diameter of one tank is less than one-half (1/2) the diameter of the adjacent tank, the tanks shall be located at least one-half (1/2) the diameter of the smaller tank apart.
  - (3) At the time of installation, tanks shall be a minimum of two hundred (200) feet from any building unit.
  - (4) Berms or other secondary containment devices shall be constructed around crude oil, condensate, and produced water tanks to provide secondary containment for the largest single tank and sufficient freeboard to contain precipitation. Berms and secondary containment devices and all containment areas shall be sufficiently impervious to contain any spilled or released material. Berms and secondary containment devices shall be inspected at regular intervals and maintained in good condition. No potential ignition sources shall be installed inside the secondary containment area unless the containment area encloses a fired vessel.
  - (5) Tanks shall be a minimum of seventy-five (75) feet from a fired vessel or heater-treater.
  - (6) Tanks shall be a minimum of fifty (50) feet from a separator, well test unit, or other non-fired equipment.
  - (7) Tanks shall be a minimum of seventy-five (75) feet from a compressor with a rating of 200 horsepower, or more.
  - (8) Tanks shall be a minimum of seventy-five (75) feet from a wellhead.
  - (9) Gauge hatches on atmospheric tanks used for crude oil storage shall be closed at all times when not in use.
  - (10) Vent lines from individual tanks shall be joined and ultimate discharge shall be directed away from the loading racks and fired vessels in accord with API RP 12R-1, 5th Edition (August 1997, reaffirmed April 2, 2008). Only the 5th Edition of the API standard applies to this rule; later amendments do not apply. The API standard is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street,

Suite 801, Denver, Colorado 80203. In addition, these materials may be examined at any state publication depository library.

- (11) During hot oil treatments on tanks containing thirty-five (35) degree or higher API gravity oil, hot oil units shall be located a minimum of one hundred (100) feet from any tank being serviced.

- (12) **Labeling of tanks.** All tanks and containers shall be labeled in accordance with Rule 210.d.

**b. Fired Vessel, Heater-Treater.**

- (1) Fired vessels (FV) including heater-treaters (HT) shall be minimum of fifty (50) feet from separators or well test units.
- (2) FV-HT shall be a minimum of fifty (50) feet from a lease automatic custody transfer unit (LACT).
- (3) FV-HT shall be a minimum of forty (40) feet from a pump.
- (4) FV-HT shall be a minimum of seventy-five (75) feet from a well.
- (5) At the time of installation, fired vessels and heater treaters shall be a minimum of two hundred (200) feet from residences, building units, or well defined normally occupied outside areas.
- (6) Vents on pressure safety devices shall terminate in a manner so as not to endanger the public or adjoining facilities. They shall be designed so as to be clear and free of debris and water at all times.
- (7) All stacks, vents, or other openings shall be equipped with screens or other appropriate equipment to prevent entry by wildlife, including migratory birds.

**c. Special Equipment.** Under unusual circumstances special equipment may be required to protect public safety. The Director shall determine if such equipment should be employed to protect public safety and if so, require the operator to employ same. If the operator or the affected party does not concur with the action taken, the Director shall bring the matter before the Commission at public hearing.

- (1) All wells located within ~~one hundred fifty~~two hundred (200) feet of a residence(s), normally occupied building units, or well defined normally occupied outside area(s), shall be equipped with an automatic control valve that will shut the well in when a sudden change of pressure, either a rise or drop, occurs. Automatic control valves shall be designed so they fail safe.
- (2) Pressure control valves required in (a) shall be activated by a secondary gas source supply, and shall be inspected at least every three (3) months to assure they are in good working order and the secondary gas supply has volume and pressure sufficient to activate the control valve.
- (3) All pumps, pits, and producing facilities shall be adequately fenced to prevent access by unauthorized persons when the producing site or equipment is easily accessible to the public and poses a physical or health hazard.



- (4) Sign(s) shall be posted at the boundary of the producing site where access exists, identifying the operator, lease name, location, and listing a phone number, including area code, where the operator may be reached at all times unless emergency numbers have been furnished to the county commission or its designee.
- d. **Mechanical Conditions.** All valves, pipes and fittings shall be securely fastened, inspected at regular intervals, and maintained in good mechanical condition.
- e. **Buried or partially buried tanks, vessels, or structures.** Buried or partially buried tanks, vessels, or structures used for storage of E&P waste shall be properly designed, constructed, installed, and operated in a manner to contain materials safely. Such vessels shall be tested for leaks after installation and maintained, repaired, or replaced to prevent spills or releases of E&P waste.
- f. **Produced water pits, special use and buried or partially buried vessels, or structures.** At the time of initial construction, pits shall be located not less than two hundred (200) feet from any building unit.

~~605. RESERVED~~

## AESTHETIC AND NOISE CONTROL REGULATIONS

### 802. NOISE ABATEMENT

- a. The goal of this rule is to identify noise sources related to oil and gas operations that impact surrounding landowners and to implement cost-effective and technically-feasible mitigation measures to bring oil and gas facilities into compliance with the allowable noise levels identified in subsection c. Operators should be aware that noise control is most effectively addressed at the siting and design phase, especially with respect to centralized compression and other downstream "gas facilities" (see definition in the 100 Series of these rules).
- b. Oil and gas operations at any well site, production facility, or gas facility shall comply with the following maximum permissible noise levels.

<u>ZONE</u>	<u>7:00 am to next 7:00 pm</u>	<u>7:00 pm to next 7:00 am</u>
<u>Residential/Agricultural/Rural</u>	<u>55 dB (A)</u>	<u>50 dB (A)</u>
<u>Commercial</u>	<u>60 dB (A)</u>	<u>55 dB (A)</u>
<u>Light industrial</u>	<u>70 dB (A)</u>	<u>65 dB (A)</u>
<u>Industrial</u>	<u>80 dB (A)</u>	<u>75 dB (A)</u>

~~Operations involving pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover rig, or stimulation is subject to the maximum permissible noise levels for industrial zones.~~ The type of land use of the surrounding area shall be determined by the ~~Commission~~ Director in consultation with the local governmental designee taking into consideration any applicable zoning or other local land use designation.

~~e. In the hours between 7:00 a.m. and the next 7:00 p.m. the noise levels permitted below~~ above may be increased ten (10) ~~db~~ dB (A) for a period not to exceed fifteen (15)

minutes in any one (1) hour period. The allowable noise level for periodic, impulsive or shrill noises is reduced by five (5) ~~dbdB~~ (A) from the levels shown.

<b>ZONE</b>	<b>7:00 am to next 7:00 pm</b>	<b>7:00 pm to next 7:00 am</b>
Residential/Agricultural/Rural	55- <del>dbdB</del> (A)	50- <del>dbdB</del> (A)
Commercial	60- <del>dbdB</del> (A)	55- <del>dbdB</del> (A)
Light industrial	70- <del>dbdB</del> (A)	65- <del>dbdB</del> (A)
Industrial	80- <del>dbdB</del> (A)	75- <del>dbdB</del> (A)

- (1) Except as required pursuant to Rule 604.c.(2)B, operations involving pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover rig, or stimulation is subject to the maximum permissible noise levels for industrial zones.
- (2) In remote locations, where there is no reasonably proximate ~~occupied structure~~ Building Unit or ~~Designated Outside Activity Area~~, the light industrial standard may be applicable.
- (3) Pursuant to Commission inspection or upon receiving a complaint from a nearby property owner or ~~Local Governmental Designee~~ regarding noise related to oil and gas operations, the Commission shall conduct an onsite investigation and take sound measurements as prescribed herein.

c. The following provide guidance for the measurement of sound levels and assignment of points of compliance for oil and gas operations:

- (1) Sound levels shall be measured at a distance of three hundred and fifty (350) feet from the noise source. At the request of the complainant, the sound level shall also be measured at a point beyond three hundred fifty (350) feet that the complainant believes is more representative of the noise impact. If an oil and gas well site, production facility, or gas facility is installed closer than three hundred fifty (350) feet from an existing occupied structure, sound levels shall be measured at a point twenty-five (25) feet from the structure towards the noise source. Noise levels from oil and gas facilities located on surface property owned, leased, or otherwise controlled by the operator shall be measured at three hundred and fifty (350) feet or at the property line, whichever is greater.

In situations where measurement of noise levels at three hundred and fifty (350) feet is impractical or unrepresentative due to topography, the measurement may be taken at a lesser distance and extrapolated to a 350-foot equivalent using the following formula:

$$\text{dbdB (A)}_{\text{DISTANCE 2}} = \text{dbdB (A)}_{\text{DISTANCE 1}} - 20 \times \log_{10} (\text{distance 2/distance 1})$$

- (2) Sound level meters shall be equipped with wind screens, and readings shall be taken when the wind velocity at the time and place of measurement is not more than five (5) miles per hour.
- (3) Sound level measurements shall be taken four (4) feet above ground level.
- (4) Sound levels shall be determined by averaging minute-by-minute measurements made over a minimum fifteen (15) minute sample duration if practicable. The sample shall be taken under conditions that are representative of the noise

experienced by the complainant (e.g., at night, morning, evening, or during special weather conditions).

- (5) In all sound level measurements, the existing ambient noise level from all other sources in the encompassing environment at the time and place of such sound level measurement shall be considered to determine the contribution to the sound level by the oil and gas operation(s).
- d. In situations where the complaint or Commission onsite inspection indicates that low frequency noise is a component of the problem, the Commission shall obtain a sound level measurement twenty-five (25) feet from the exterior wall of the residence or occupied structure nearest to the noise source, using a noise meter calibrated to the ~~dB~~dB (C) scale. If this reading exceeds 65 ~~dB~~dB (C), the Commission shall require the operator to obtain a low frequency noise impact analysis by a qualified sound expert, including identification of any reasonable control measures available to mitigate such low frequency noise impact. Such study shall be provided to the Commission for consideration and possible action.
- e. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all building units.
- f. All Oil and Gas ~~f~~Facilities ~~within four hundred (400) feet of building units~~ with engines or motors which are not electrically operated that are within four hundred (400) feet of Building Units shall be equipped with quiet design mufflers or equivalent. All mufflers shall be properly installed and maintained in proper working order.

### 803. LIGHTING

To the extent practicable, site lighting shall be directed downward and ~~internally-inward and shielded~~ so as to avoid glare on public roads and building units within ~~seven (700) one thousand (1000) hundred~~ feet.

### 804. VISUAL IMPACT MITIGATION

Production facilities, regardless of construction date, ~~which are observable~~ that can be seen from any public highway shall be painted with uniform, non-contrasting, non-reflective color tones (similar to the Munsell Soil Color Coding System), and with colors matched to but slightly darker than the surrounding landscape ~~by September 1, 2010~~.

### 805. ODORS AND DUST

- a. **General.** Oil and gas facilities and equipment shall be operated in such a manner that odors and dust do not constitute a nuisance or hazard to public welfare.

b. **Odors.**

(1) **Compliance.**

- A. Oil and gas operations shall be in compliance with the Department of Public Health and Environment, Air Quality Control Commission, Regulation No. 2 Odor Emission, 5 C.C.R. 1001-4.
- B. No violation of Rule 805.b.(1) shall be cited by the Commission, provided that the practices identified in Rule 805.b.(2) are used.

(2) **Production Equipment and Operations.**

~~A. **Condensate Tanks.** All condensate tanks with a potential to emit volatile organic compounds (VOC) of five (5) tons per year (tpy) or greater, located in Garfield, Mesa, or Rio Blanco County and within 1/4 mile of a building unit, educational facility, assembly building, hospital, nursing home, board and care facility, jail, or designated outside activity area shall utilize a control device capable of achieving 95% control efficiency of VOC and shall hold a valid permit from the Colorado Department of Public Health and Environment, Air Pollution Control Division, for the tank and control device. Condensate tanks meeting the above criteria and existing on May 1, 2009 on federal lands and on April 1, 2009 on all other lands shall be in compliance with this subsection by October 1, 2009.~~

~~B. **Crude Oil and Produced Water Tanks.** All crude oil and produced water tanks with a potential to emit VOC of five (5) tpy or greater, located in Garfield, Mesa, or Rio Blanco County and within 1/4 mile of a building unit, educational facility, assembly building, hospital, nursing home, board and care facility, jail, or designated outside activity area shall utilize a control device capable of achieving 95% control efficiency of VOC and shall hold a valid permit from the Colorado Department of Public Health and Environment, Air Pollution Control Division, for the tank and control device. Crude oil and produced water tanks meeting the above criteria and existing on May 1, 2009 on federal lands and on April 1, 2009 on all other lands shall be in compliance with this subsection by October 1, 2009.~~

~~C. **Glycol Dehydrators.** All glycol dehydrators with a potential to emit VOC of five (5) tpy or greater, located in Garfield, Mesa, or Rio Blanco County and within 1/4 mile of a building unit, educational facility, assembly building, hospital, nursing home, board and care facility, jail, or designated outside activity area shall utilize a control device capable of achieving 90% control efficiency of VOC and shall hold a valid permit from the Colorado Department of Public Health and Environment, Air Pollution Control Division, for the glycol dehydrator and control device. Glycol dehydrators meeting the above criteria and existing on May 1, 2009 on federal lands and on April 1, 2009 on all other lands shall be in compliance with this subsection by October 1, 2009.~~

~~D. **Pits.** Pits constructed after May 1, 2009 on federal land or after April 1, 2009 on all other land with a potential to emit VOC of five (5) tpy or greater and located in Garfield, Mesa, or Rio Blanco County shall not be located within 1/4 mile of a building unit, educational facility, assembly building, hospital, nursing home, board and care facility, jail, or designated outside activity area. For the purposes of this section, compliance with Rule 902.c shall be considered a required practice. Operators may provide site-specific data and analyses to COGCC staff establishing that pits potentially subject to this subsection do not have a potential to emit VOC of five (5) tpy or greater.~~

~~E. **Pneumatic Devices.** In instances when new, replaced, or repaired pneumatic devices are installed, low or no bleed valves must be used, where technically feasible.~~

- A. Crude Oil, Condensate, and Produced Water Tanks.** All crude oil, condensate, and produced water tanks with a potential to emit volatile organic compounds (VOC) of five (5) tons per year (tpy) or greater, located in a Designated Buffer Zone (Rule 604.a.), or within 1000 feet of a High Occupancy Building Unit (Rule 604.b.), or a Designated Outside Activity Area shall use an emission control device capable of achieving 95% control efficiency of VOC and shall hold a valid permit from the Colorado Department of Public Health and Environment, Air Pollution Control Division, for the tank and control device.
- B. Glycol Dehydrators.** All glycol dehydrators with a potential to emit VOC of five (5) tpy or greater, located in a Designated Buffer Zone (Rule 604.a.), or within 1000 feet of a High Occupancy Building Unit (Rule 604.b.), or a Designated Outside Activity Area shall use an emission control device capable of achieving 90% control efficiency of VOC and shall hold a valid permit from the Colorado Department of Public Health and Environment, Air Pollution Control Division, for the glycol dehydrator and control device.
- C. Pits.** Pits with a potential to emit VOC of five (5) tpy or greater shall not be located within a Designated Buffer Zone (Rule 604.a.), or within 1000 feet of a High Occupancy Building Unit (Rule 604.b.), or a Designated Outside Activity Area. For the purposes of this section, compliance with Rule 902.c is required. Operators may provide site-specific data and analyses to COGCC staff establishing that pits potentially subject to this subsection do not have a potential to emit VOC of five (5) tpy or greater.
- D. Pneumatic Devices.** Low- or no-bleed pneumatic devices must be used when existing pneumatic devices are replaced or repaired, and when new pneumatic devices are installed.

**(3) Well completions.**

- A.** Green completion practices are required on oil and gas wells where reservoir pressure, formation productivity, and wellbore conditions are likely to enable the well to be capable of naturally flowing hydrocarbon gas in flammable or greater concentrations at a stabilized rate in excess of five hundred (500) MCFD to the surface against an induced surface backpressure of five hundred (500) psig or sales line pressure, whichever is greater. Green completion practices are not required for exploratory wells, where the wells are not sufficiently proximate to sales lines, or where green completion practices are otherwise not technically and economically feasible.
- B.** Green completion practices shall include, but not be limited to, the following emission reduction measures:
- i.** The operator shall employ sand traps, surge vessels, separators, and tanks as soon as practicable during flowback and cleanout operations to safely maximize resource recovery and minimize releases to the environment.
  - ii.** Well effluent during flowback and cleanout operations prior to encountering hydrocarbon gas of salable quality or significant volumes of condensate may be directed to tanks or pits (where permitted) such that oil or condensate volumes shall not be

allowed to accumulate in excess of twenty (20) barrels and must be removed within twenty-four (24) hours. The gaseous phase of non-flammable effluent may be directed to a flare pit or vented from tanks for safety purposes until flammable gas is encountered.

- iii. Well effluent containing more than ten (10) barrels per day of condensate or within two (2) hours after first encountering hydrocarbon gas of salable quality shall be directed to a combination of sand traps, separators, surge vessels, and tanks or other equipment as needed to ensure safe separation of sand, hydrocarbon liquids, water, and gas and to ensure salable products are efficiently recovered for sale or conserved and that non-salable products are disposed of in a safe and environmentally responsible manner.
- iv. If it is safe and technically feasible, closed-top tanks shall utilize backpressure systems that exert a minimum of four (4) ounces of backpressure and a maximum that does not exceed the pressure rating of the tank to facilitate gathering and combustion of tank vapors. Vent/backpressure valves, the combustor, lines to the combustor, and knock-outs shall be sized and maintained so as to safely accommodate any surges the system may encounter.
- v. All salable quality gas shall be directed to the sales line as soon as practicable or shut in and conserved. Temporary flaring or venting shall be permitted as a safety measure during upset conditions and in accordance with all other applicable laws, rules, and regulations.

~~C. An operator may request a variance from the Director if it believes that employing green completion practices is not feasible because of well or field conditions or that following them in a specific instance would endanger the safety of well site personnel or the public.~~

C. An operator may request a variance from the Director if it believes that using green completion practices is infeasible due to well or field conditions, or would endanger the safety of wellsite personnel or the public.

D. In instances where green completion practices are not technically feasible ~~or are not required~~, operators shall employ Best Management Practices (BMPs) to reduce emissions. Such BMPs shall consider safety and may shall include measures or actions, ~~considering safety~~, to minimize the time period during which gases are emitted directly to the atmosphere, ~~or and~~ monitoring and recording the volume and time period of such emissions. ~~Such examples could include the flaring or venting of gas.~~

- c. **Fugitive dust.** Operators shall employ practices for control of fugitive dust caused by their operations. Such practices shall include but are not limited to the use of speed restrictions, regular road maintenance, ~~and~~ restriction of construction activity during high-wind days, and silica dust controls when handling sand used in hydraulic fracturing operations. Additional management practices such as road surfacing, wind breaks and barriers, or automation of wells to reduce truck traffic may also be required if technologically feasible and economically reasonable to minimize fugitive dust emissions.



# Rules Changes to Correct References

## GENERAL RULES

### 216. COMPREHENSIVE DRILLING PLANS

- a. **Purpose.** Comprehensive Drilling Plans are intended to identify foreseeable oil and gas activities in a defined geographic area, facilitate discussions about potential impacts, and identify measures to minimize adverse impacts to public health, safety, welfare, and the environment, including wildlife resources, from such activities. An operator's decisions to initiate and enter into a Comprehensive Drilling Plan are voluntary.
- b. **Scope.** A Comprehensive Drilling Plan shall cover more than one (1) proposed ~~oil-and-gas location~~ Oil and Gas Location within a geologic basin, but its scope may otherwise be customized by the operator to address specific issues in particular areas. Although operators are encouraged to develop joint Comprehensive Drilling Plans covering the proposed activities of multiple operators where appropriate, Comprehensive Drilling Plans will typically cover the activities of one operator.
- c. **Information requirements.** Operators are encouraged to submit the most detailed information practicable about the future activities in the geographic area covered by the Comprehensive Drilling Plan. Detailed information is more likely to lead to identification of specific impacts and agreement regarding measures to minimize adverse impacts. The information included in the Comprehensive Drilling Plan shall be decided upon by the operator, in consultation with other participants. Information provided by operators to federal agencies to obtain approvals for surface disturbing activities on federal land may be submitted in support of a Comprehensive Drilling Plan. The following information may be included as part of a Comprehensive Drilling Plan, depending on the circumstances:
- (1) A U.S. Geological Survey 1:24,000 topographic map showing the proposed ~~oil-and-gas location~~ Oil and Gas Location-s, including proposed access roads and gathering systems reasonably known to the operator(s);
  - (2) A current aerial photo showing the proposed ~~oil-and-gas location~~ Oil and Gas Location-s displayed at the same scale as the topographic map to facilitate use as an overlay;
  - (3) Overlay maps showing the proposed ~~oil-and-gas location~~ Oil and Gas Location-s, including all proposed access roads and gathering systems, drainages and stream crossings, and existing and proposed buildings, roads, utility lines, pipelines, known mines, oil or gas wells, water wells known to the operator(s) and those registered with the State Engineer's Office, and riparian areas;
  - (4) A list of all proposed oil and gas facilities to be installed within the area covered by the Comprehensive Drilling Plan over the time of the Plan and the anticipated timing of the installation;
  - (5) A plan for the management of exploration and production waste;
  - (6) A description of the wildlife resources at each ~~oil-and-gas location~~ Oil and Gas Location;
  - (7) Wildlife information that is determined necessary after consultation with the Colorado ~~Division of Wildlife~~ Parks and Wildlife;

- (8) Locations of all proposed reference areas to be used as guides for interim and final reclamation;
- (9) Past economic uses to which the land has been put in the previous ten (10) years reasonably known to the operator(s);
- (10) Any planned variance requests that are reasonably known to the operator;
- (11) Proposed best management practices or mitigation to minimize adverse impacts to resources such as air, water, or wildlife resources; and
- (12) A list of all parties that participated in creating the Comprehensive Drilling Plan pursuant to Rule 216.d.(2).

**d. Procedure.**

- (1) One or more operator(s) may submit a proposed Comprehensive Drilling Plan to the Commission, describing the operator's reasonably foreseeable oil and gas development activities in a specified geographic area within a geologic basin. The Director may request an operator to initiate a Comprehensive Drilling Plan, but the decision to do so rests solely with the operator.
- (2) The operator(s) shall invite the Colorado Department of Public Health and Environment, the Colorado ~~Division of Wildlife~~Parks and Wildlife, ~~Local~~gGovernmental ~~d~~esignee(s), and all surface owners to participate in the development of the Comprehensive Drilling Plan. In many cases, participation by these agencies and individuals will facilitate identification of potential impacts and development of conditions of approval to minimize adverse impacts.
- (3) The operator(s), the Director, and participants involved in the Comprehensive Drilling Plan process shall review the proposal, identify information needs, discuss operations and potential impacts, and establish measures to minimize adverse impacts resulting from oil and gas development activities covered by the Plan.
- (4) The Director shall place on the Commission's hearing agenda in a timely manner a Comprehensive Drilling Plan that has been agreed to in writing by the operator(s) and that the Director considers suitable after consultation with the Colorado Department of Public Health and Environment and the Colorado ~~Division of Wildlife~~Parks and Wildlife, as applicable, and consideration of any other comments.
- (5) The Director shall identify and document the agreed-upon conditions of approval for activities within the geographic area covered by the accepted Comprehensive Drilling Plan.
- (6) Comprehensive Drilling Plans that have been accepted by the Commission shall be posted on the COGCC website, subject to any confidential or proprietary information belonging to the operator or other parties being withheld. Written information obtained or compiled from landowners and operators in conjunction with development of a Comprehensive Drilling Plan is exempt from disclosure to the public, provided that any page containing information subject to withholding under the Colorado Open Records Act is clearly labeled with the words "Confidential Information." The Commission, the Colorado Department of Public Health and Environment, and the Colorado ~~Division of Wildlife~~Parks and Wildlife

will keep all such data and information confidential to the extent allowed by the Colorado Open Records Act.

- (7) Before initiating a Comprehensive Drilling Plan, operators are encouraged to discuss with the Director and, as appropriate, the Colorado Department of Public Health and Environment and the Colorado ~~Division of Wildlife~~Parks and Wildlife, the scope of the Plan, the schedule for its preparation, the information to be included, any public participation opportunities, and whether the Plan is intended to satisfy Form 2A requirements.

**e. Variances and site-specific approvals.**

- (1) A Comprehensive Drilling Plan may incorporate variances to any of these rules, provided that all of the requirements for granting variances are met.
- (2) Practices and conditions agreed to in an accepted Comprehensive Drilling Plan shall be:
  - A. Included as conditions of approval in any Form 2 or other permit for individual wells or other ground-disturbing activity covered by the Plan, where no Form 2A is required under Rule 303.~~eb~~.(2).B.
  - B. Included as conditions of approval in any Form 2, Form 2A, or other permit for individual wells or other ground-disturbing activity covered by the Plan, where a Form 2A is required under Rule 303.~~eb~~.(1).

Any permit-specific condition of approval for wildlife habitat protection will be included only with the consent of the surface owner.

**f. Incentives.** The following incentives shall apply as a means to facilitate and encourage the development of Comprehensive Drilling Plans by operators:

- (1) Where the Comprehensive Drilling Plan contains information substantially equivalent to that which would be required in a Form 2A for the proposed ~~oil-and-gas location~~Oil and Gas Location and the Comprehensive Drilling Plan has been subject to procedures substantially equivalent to those required for a Form 2A, then a Form 2A shall not be required for a proposed ~~oil-and-gas location~~Oil and Gas Location that was included in the Comprehensive Drilling Plan and does not involve a variance from the Plan or a variance from these rules not addressed in the Comprehensive Drilling Plan.
- (2) Where the Comprehensive Drilling Plan does not contain information substantially equivalent to that which would be required in a Form 2A for the proposed ~~oil-and-gas location~~Oil and Gas Location or the Comprehensive Drilling Plan has not been subject to procedures substantially equivalent to those required for a Form 2A or the operator seeks a variance from the Comprehensive Drilling Plans or a provision of these rules that is not addressed in the Plan, then a Form 2A shall be required for a proposed ~~oil-and-gas location~~Oil and Gas Location included in the Comprehensive Drilling Plan. However, the Director shall modify the informational and procedural requirements for such Form 2A to reflect the information included in and procedures used to approve the Comprehensive Drilling Plan and with input, where appropriate, from the Colorado Department of Public Health and Environment and the Colorado ~~Division of Wildlife~~Parks and Wildlife.

- (3) Where a proposed ~~oil and gas location~~ Oil and Gas Location is covered by an approved Comprehensive Drilling Plan and no variance is sought from such Plan or these rules not addressed in the Comprehensive Drilling Plan, then the Director shall give priority to and approve or deny an Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, within thirty (30) days of a determination that such application is complete pursuant to Rule 303.~~he~~ unless significant new information is brought to the attention of the Director.
- (4) Where the Director does not issue a decision on an Application for Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, for an ~~oil and gas location~~ Oil and Gas Location as described in Rule 216.f.(3) above within thirty (30) days, then within five (5) days the Director shall provide the operator with a written explanation for the delay and the anticipated decision date, and the operator may request a hearing before the Commission. Such a hearing shall be expedited but will be held only after both the 20 days' notice and the newspaper notice are given as required by Section 34-60-108, C.R.S. However, the hearing may be held after the newspaper notice if all of the entities listed under Rule 503.b waive the 20-day notice requirement.
- (5) Any party requesting a hearing pursuant to Rule 503.b.(7) on the Director's approval of an Application for Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, for an ~~oil and gas location~~ Oil and Gas Location that includes conditions of approval arrived at as part of an accepted Comprehensive Drilling Plan shall bear the burden of establishing that the conditions of approval are insufficient to protect public health, safety, welfare, the environment, and wildlife resources due to new information or changed circumstances occurring since the Comprehensive Drilling Plan was accepted by the Commission.
- g. **Duration.** Once accepted by the Commission, a Comprehensive Drilling Plan shall be valid for a period of six (6) years.
- h. **Modification.** An accepted Comprehensive Drilling Plan may be modified using the same process as that leading to acceptance of the original Plan either upon the initiative of the operator or upon the initiative of the Director and upon a showing that there has been a change in an applicable provision in these rules or a significant change to the basis upon which the Plan was developed. The review and approval of the modification shall focus only on the proposed modification(s).

## **SERIES DRILLING, DEVELOPMENT, RPODUCITON AND ABANDONMENT**

### **317. GENERAL DRILLING RULES**

Unless altered, modified, or changed for a particular field or formation upon hearing before the Commission the following shall apply to the drilling or deepening of all wells.

- a. **Blowout prevention equipment ("BOPE")**. The operator shall take all necessary precautions for keeping a well under control while being drilled or deepened. BOPE, if any, shall be indicated on the Application for Permit to Drill, Deepen, Re-enter, or Recomplete and Operate (Form 2), as well as any known subsurface conditions (e.g. under or over-pressured formations). The working pressure of any BOPE shall exceed the anticipated surface pressure to which it may be subjected, assuming a partially evacuated hole with a pressure gradient of 0.22 psi/ft. [For BOPE requirements in ~~high~~

~~density areas~~ Designated Buffer Zones see Rule ~~603.b.(4)~~ 604.cd(4). For statewide BOPE specification, inspection, operation and testing requirements see Rule 603.~~fe~~.]

- (1) The Director shall have the authority to designate specific areas, fields or formations as requiring certain BOPE. Any such proposed designation shall occur by notice describing the area, field or formation in question and shall be given to all operators of record within such area or field and by publication. The proposed designation, if no protest is timely filed, shall be placed on the Commission consent agenda for its next regularly scheduled meeting following the month in which such notice was given. The matter shall be approved or heard by the Commission in accordance with Rule 520. Such designation shall be effective immediately upon approval by the Commission, except as to any previously-approved Form 2.
  - (2) The Director shall have the authority, outside areas designated pursuant to Rule 317.a.(1), to condition approval of any application for permit to drill by requiring BOPE which the Director determines to be necessary for keeping the well under control. Should the operator object to such condition of approval, the matter shall be heard at the next regularly scheduled meeting of the Commission, subject to the notice requirements of Rule 507.
- b. **Bottom hole location.** Unless authorized by the provisions of Rule 321., all wells shall be so drilled that the horizontal distance between the bottom of the hole and the location at the top of the hole shall be at all times a practical minimum.
  - c. **Requirement to post permit at the rig and provide spud notice.** A copy of the approved Application for Permit to Drill, Deepen, Re-enter, or Recomplete and Operate, Form 2, shall be posted in a conspicuous place on the drilling rig or workover rig. A notice shall be provided to the Director on a ~~Sundry Notice, Form 4, no later than five (5) days following the spudding of a well~~ on a Notice of Notification, Form 42, at least forty eight (48) hours in advance of spudding the surface hole. The Director may apply a condition of approval for Application for Permit to Drill, Deepen, Re-enter, or Recomplete and Operate, Form 2 requiring not less than twenty-four (24) hours nor more than seventy-two (72) hours verbal or written notice prior to spud.
  - d. **Casing program to protect hydrocarbon horizons and ground water.** The casing program adopted for each well must be so planned and maintained as to protect any potential oil or gas bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil, gas or water from one (1) horizon to another, that may result in the degradation of ground water. A Sundry Notice, Form 4, including a detailed work plan and a wellbore diagram, shall be submitted and approved by the Director prior to any routine or planned casing repair operations. During well operations, prior verbal approval for unforeseen casing repairs followed by the filing of a Sundry Notice, Form 4, after completion of operations shall be acceptable.
  - e. **Surface casing where subsurface conditions are unknown.** In areas where pressure and formations are unknown, sufficient surface casing shall be run to reach a depth below all known or reasonably estimated utilizable domestic fresh water levels and to prevent blowouts or uncontrolled flows, and shall be of sufficient size to permit the use of an intermediate string or strings of casings. Surface casing shall be set in or through an impervious formation and shall be cemented by pump and plug or displacement or other approved method with sufficient cement to fill the annulus to the top of the hole, all in accordance with reasonable requirements of the Director. In the D-J Basin Fox Hills Protection Area surface casing will be set in accordance with Rule 317A. (See also subparagraph g.).

- f. **Surface casing where subsurface conditions are known.** For wells drilled in areas where subsurface conditions have been established by drilling experience, surface casing, size at the owner's option, shall be set and cemented to the surface by the pump and plug or displacement or other approved method at a depth and in a manner sufficient to protect all fresh water and to ensure against blowouts or uncontrolled flows. In the D–J Basin Fox Hills Protection Area surface casing shall be set in accordance with Rule 317A. (See also subparagraph g.).
- g. **Alternate aquifer protection by stage cementing.** In areas where fresh water aquifers are of such depth as to make it impractical or uneconomical to set the full amount of surface casing necessary to comply fully with the requirement to cover or isolate all fresh water aquifers as required in subparagraph e. and f., the owner may, at its option, comply with this requirement by stage cementing the intermediate and/or production string so as to accomplish the required result. If unanticipated fresh water aquifers are encountered after setting the surface pipe they shall be protected or isolated by stage cementing the intermediate and/or production string with a solid cement plug extending from fifty (50) feet below each fresh water aquifer to fifty (50) feet above said fresh water aquifer or by other methods approved by the Director in each case. In the D–J Basin Fox Hills Protection Area any stage cementing shall occur only in accordance with Rule 317A. If the stage cement is not circulated to surface, a temperature log or cement bond log shall be run to determine the top of the stage cement to ensure aquifers are protected.
- h. **Surface and intermediate casing cementing.** The operator shall ensure that all surface and intermediate casing cement required under this rule shall be of adequate quality to achieve a minimum compressive strength of three hundred (300) psi after twenty-four (24) hours and eight hundred (800) psi after seventy-two (72) hours measured at ninety-five degrees fahrenheit (95 °F) and at eight hundred (800) psi. All surface casing shall be cemented with a continuous column from the bottom of the casing to the surface. After thorough circulation of the wellbore, cement shall be pumped behind the intermediate casing to at least two hundred (200) feet above the top of the shallowest known production horizon and as required in 317.g. Cement placed behind the surface and intermediate casing shall be allowed to set a minimum of eight (8) hours, or until three hundred (300) psi calculated compressive strength is developed, whichever occurs first, prior to commencing drilling operations. If the surface casing cement level falls below the surface, to the extent safety or aquifer protection is compromised, remedial cementing operations shall be performed.
- i. **Production casing cementing.** The operator shall ensure that all cement required under this rule placed behind production casing shall be of adequate quality to achieve a minimum compressive strength of at least three hundred (300) psi after twenty-four (24) hours and eight hundred (800) psi after seventy-two (72) hours measured at ninety-five degrees fahrenheit (95 °F) and at eight hundred (800) psi. After thorough circulation of a wellbore, cement shall be pumped behind the production casing (200) feet above the top of the shallowest known producing horizon. All fresh water aquifers which are exposed below the surface casing shall be cemented behind the production casing. All such cementing around an aquifer shall consist of a continuous cement column extending from at least fifty (50) feet below the bottom of the fresh water aquifer which is being protected to at least fifty (50) feet above the top of said fresh water aquifer. Cement placed behind the production casing shall be allowed to set seventy-two (72) hours, or until eight hundred (800) psi calculated compressive strength is developed, whichever occurs first, prior to the undertaking of any completion operation.
- j. **Production casing pressure testing.** The installed production casing shall be adequately pressure tested for the conditions anticipated to be encountered during completion and production operations.



- k. **Protection of aquifers and production stratum and suspension of drilling operations before running production casing.** In the event drilling operations are suspended before production string is run, the Director shall be notified immediately and the operator shall take adequate and proper precautions to assure that no alien water enters oil or gas strata, nor potential fresh water aquifers during such suspension period or periods. If alien water is found to be entering the production stratum or to be causing significant adverse environmental impact to fresh water aquifers during completion testing or after the well has been put on production, the condition shall be promptly remedied.
- l. **Flaring of gas during drilling and notice to local emergency dispatch.** Any gas escaping from the well during drilling operations shall be, so far as practicable, conducted to a safe distance from the well site and burned. The operator shall notify the local emergency dispatch as provided by the local governmental designee of any such flaring. Such notice shall be given prior to the flaring if the flaring can be reasonably anticipated, and in all other cases as soon as possible but in no event more than two (2) hours after the flaring occurs.
- m. **Protection of productive strata during deepening operations.** If a well is deepened for the purpose of producing oil and gas from a lower stratum, such deepening to and completion in the lower stratum shall be conducted in such a manner as to protect all upper productive strata.
- n. **Requirement to evaluate disposal zones for hydrocarbon potential.** If a well is drilled as a disposal well then the disposal zone shall be evaluated for hydrocarbon potential. The proposed hydrocarbon evaluation method shall be submitted in writing and approved by the Director prior to implementation. The productivity results shall be submitted to the Director upon completion of the well.
- o. **Requirement to log well.** For all new drilling operations, the operator shall be required to run a minimum of a resistivity log with gamma-ray or other petrophysical log(s) approved by the Director that adequately describe the stratigraphy of the wellbore. A cement bond log shall be run on all production casing or, in the case of a production liner, the intermediate casing, when these casing strings are run. These logs and all other logs run shall be submitted with the Well Completion or Recompletion Report and Log, Form 5. Open hole logs shall be run at depths that adequately verify the setting depth of surface casing and any aquifer coverage. These requirements shall not apply to the unlogged open hole completion intervals, or to wells in which no open hole logs are run.
- p. **Remedial cementing during recompletion.** The Director may apply a condition of approval for Application for Permit to Drill, Deepen, Re-enter, or Recomplete and Operate, Form 2, to require remedial cementing during recompletion operations consistent with the provisions for protecting aquifers and hydrocarbon bearing zones in this Rule 317.

## **317B. PUBLIC WATER SYSTEM PROTECTION**

- a. **Definitions.** For purposes of this Rule 317B:

(1) **Drilling, Completion, Production and Storage ("DCPS") Operations** shall mean operations at (i) well sites for the drilling, completion, recompletion, workover, or stimulation of wells or chemical and production fluid storage, and (ii) any other ~~oil and gas location~~ Oil and Gas Location at which production facilities are operated. DCPS Operations shall exclude roads, gathering lines, pipelines, and routine operations and maintenance.

- (2) **Existing Oil and Gas Location** shall mean an ~~oil-and-gas-location~~ Oil and Gas Location, excluding roads, pipelines, and gathering lines, permitted or constructed prior to the later of May 1, 2009 for federal land or April 1, 2009 for all other land or the date that the ~~oil-and-gas-location~~ Oil and Gas Location becomes subject to Rule 317B by virtue of its proximity to a Classified Water Supply Segment.
- (3) **New Oil and Gas Location** shall mean an ~~oil-and-gas-location~~ Oil and Gas Location, excluding roads, pipelines, and gathering lines, that is not an existing ~~oil-and-gas location~~ Oil and Gas Location.
- (4) **New Surface Disturbance** shall mean surface disturbance that expands the area of surface covered by an ~~oil-and-gas location~~ Oil and Gas Location beyond that initially disturbed in the construction of the ~~oil-and-gas location~~ Oil and Gas Location.
- (5) **Non-Exempt Linear Feature** shall mean a road, gathering line, or pipeline that is not necessary to cross a stream or connect or access a well or a gathering line.

**b. Applicability Determination.**

- (1) Rule 317B is applicable to DCPS Operations within Surface Water Supply Areas. The applicability of Rule 317B will be determined by reviewing the Public Water System Surface Water Supply Area Map, attached as part of Appendix VI, or by entering information into the Public Water System Surface Water Supply Area Applicability Determination Tool, also located on the Commission website.
- (2) The Public Water Systems subject to the protections of this Rule 317B are those listed in Appendix VI. Any additions or deletions to the Public Water Systems listed in Appendix VI or the Public Water System Surface Water Supply Area Map, also located in Appendix VI, shall be by Commission rulemaking, as provided in Rule 529.
- (3) DCPS Operations at New Oil and Gas Locations within a Surface Water Supply Area will be subject to the requirements in Rules 317B.c, 317B.d, or 317B.e based on the buffer zones defined in Table 1, below. DCPS Operations at Existing ~~Oil-and-Gas-Location~~ Oil and Gas Location-s within a Surface Water Supply Area at which no new surface disturbance has occurred after the date Rule 317B became applicable to that ~~oil-and-gas location~~ Oil and Gas Location will be subject to the requirements in Rule 317B.f.(1) based on the buffer zones defined in Table 1. DCPS Operations at Existing Oil and Gas Locations within a Surface Water Supply Area at which new surface disturbance has occurred after the date Rule 317B became applicable to that ~~oil-and-gas location~~ Oil and Gas Location will be subject to the requirements in Rule 317B.f.(2) based on the buffer zones defined in Table 1.
- (4) For Classified Water Supply Segments that are perennial and intermittent streams, buffer zones shall be determined by measuring from the ordinary high water line of each bank to the near edge of the disturbed area at the ~~oil-and-gas location~~ Oil and Gas Location at which the DCPS Operations will occur.
- (5) The buffer zones shall apply only to DCPS Operations located on the surface. The buffer zones shall not apply to subsurface boreholes and equipment or materials contained therein. The buffer zones shall not apply to DCPS Operations located

in an area that does not drain to a classified water supply segment protected by this Rule 317B.

**TABLE 1. Buffer Zones Associated with DCPS Operations.**

<b>Zone</b>	<b>Classified Water Supply Segments (ft)</b>
Internal Buffer	0 - 300
Intermediate Buffer	301 - 500
External Buffer	501 - 2,640

**c. Requirements for DCPS Operations Conducted at New Oil and Gas Locations in the Internal Buffer Zone.**

DCPS Operations conducted and Non-Exempt Linear Features located at New Oil and Gas Locations within a Surface Water Supply Area may not occur in whole or in part within the Internal Buffer Zone identified in Table 1 unless a variance is granted pursuant to Rule 502.b and consultation with the Colorado Department of Public Health and Environment occurs pursuant to Rule 306.d and a Form 2A or Form 2 with appropriate conditions of approval has been approved, or the Director has approved a Comprehensive Drilling Plan pursuant to Rule 216 that covers the operation. In determining appropriate conditions of approval for such operations, the Director shall consider the extent to which the conditions of approval are required to prevent impacts to the Public Water System.

(1) The Commission shall grant a variance if the operator demonstrates that:

A. The proposed DCPS Operations and applicable best management practices and operating procedures will result in substantially equivalent protection of drinking water quality in the Surface Water Supply area; and

B. Either:

i. ~~Conducting~~ the DCPS Operation outside the Internal Buffer Zone would pose a greater risk to public health, safety, or welfare, including the environment and wildlife resources, such as may be the case where conducting the DCPS Operations outside the Internal Buffer Zone would require construction in steep or erosion-prone terrain or result in greater surface disturbance due to an inability to use infrastructure already constructed such as roads, well sites, or pipelines; or

ii. Conducting DCPS Operations beyond the Internal Buffer Zone is technically infeasible and prevents the operator from exercising its mineral rights.

(2) At a minimum, for any DCPS Operation at a New Oil and Gas Location within the Internal Buffer Zone, the Director shall include as conditions of approval in the Form 2A, Form 2, or Comprehensive Drilling Plan, the requirements of Rule 317B.d.

**d. Requirements for DCPS Operations at New Oil and Gas Locations in the Intermediate Buffer Zone.**

The following shall be required for all DCPS Operations at New Oil and Gas Locations within a Surface Water Supply Area and in the Intermediate Buffer Zone as defined in Table 1.

- (1) Pitless drilling systems;
- (2) Flowback and stimulation fluids contained within tanks that are placed on a well pad or in an area with downgradient perimeter berming;
- (3) Berms or other containment devices shall be constructed in compliance with Rule ~~603.e.(12)~~ ~~604.d~~ 604.c.(11) around crude oil, condensate, and produced water storage tanks; and
- (4) When sufficient water exists in the Classified Water Supply Segment, collection of baseline surface water data consisting of a pre-drilling surface water sample collected immediately downgradient of the ~~oil and gas location~~ Oil and Gas Location and follow-up surface water data consisting of a sample collected at the same location three (3) months after the conclusion of any drilling activities and operations or completion. The sample parameters shall include:
  - A. pH;
  - B. Alkalinity;
  - C. Specific conductance;
  - D. Major cations/anions (chloride, fluoride, sulfate, sodium);
  - E. Total dissolved solids;
  - F. BTEX/GRO/DRO;
  - G. TPH;
  - H. PAH's (including benzo(a)pyrene); and
  - I. Metals (arsenic, barium, calcium, chromium, iron, magnesium, selenium).

Current applicable EPA-approved analytical methods for drinking water must be used and analyses must be performed by laboratories that maintain state or nationally accredited programs.

Copies of all test results described above shall be provided to the Commission and the potentially impacted Public Water System(s) within three (3) months of collecting the samples. In addition, the analytical results and surveyed sample locations shall be submitted to the Commission in an electronic data deliverable format.

- (5) Notification of potentially impacted Public Water Systems within fifteen (15) stream miles downstream of the DCPS Operation prior to commencement of new surface disturbing activities at the site.
- (6) An emergency spill response program that includes employee training, safety, and maintenance provisions and current contact information for downstream Public

Water System(s) located within fifteen (15) stream miles of the DCPS Operation, as well as the ability to notify any such downstream Public Water System(s) with intake(s) within fifteen (15) stream miles downstream of the DCPS operations.

In the event of a spill or release, the operator shall immediately implement the emergency response procedures in the above-described emergency response program.

If a spill or release impacts or threatens to impact a Public Water System, the operator shall notify the affected or potentially affected Public Water System(s) immediately following discovery of the release, and the spill or release shall be reported to the Commission in accordance with Rule 906.b.(3), and to the Environmental Release/Incident Report Hotline (1-877-518-5608) in accordance with Rule 906.b.(4).

**e. Requirements for DCPS Operations at New Oil and Gas Locations within the External Buffer Zone.**

The following shall be required when DCPS Operations are conducted at New Oil and Gas Locations within a Surface Water Supply Area and in the External Buffer Zone as defined in Table 1.

- (1) Pitless drilling systems or containment of all drilling flowback and stimulation fluids pursuant to Rule 904; and
- (2) When sufficient water exists in the Classified Water Supply Segment, collection of baseline surface water data consisting of a pre-drilling surface water sample collected immediately downgradient of the ~~oil and gas location~~ Oil and Gas Location and follow-up surface water data consisting of a sample collected at the same location three (3) months after the conclusion of any drilling activities and operations or completion. The sample parameters shall include:
  - A. pH;
  - B. Alkalinity;
  - C. Specific conductance;
  - D. Major cations/anions (chloride, fluoride, sulfate, sodium);
  - E. Total dissolved solids;
  - F. BTEX/GRO/DRO;
  - G. TPH;
  - H. PAH's (including benzo(a)pyrene); and
  - I. Metals (arsenic, barium, calcium, chromium, iron, magnesium, selenium).

Current applicable EPA-approved analytical methods for drinking water must be used and analyses must be performed by laboratories that maintain state or nationally accredited programs.

Copies of all test results described above shall be provided to the Commission and the potentially impacted Public Water System(s) within three (3) months of collecting the samples. In addition,

the analytical results and surveyed sample locations shall be submitted to the Commission in an electronic data deliverable format.

- (3) Notification of potentially impacted Public Water Systems within fifteen (15) stream miles downstream of the DCPS Operation prior to commencement of new surface disturbing activities at the site.
- (4) An emergency spill response program that includes employee training, safety, and maintenance provisions and current contact information for downstream Public Water System(s) located within fifteen (15) stream miles of the DCPS Operation, as well as the ability to notify any such downstream Public Water System(s) with intake(s) within fifteen (15) stream miles downstream of the DCPS operations.

In the event of a spill or release, the operator shall immediately implement the emergency response procedures in the above-described emergency response program.

If a spill or release impacts or threatens to impact a Public Water System, the operator shall notify the affected or potentially affected Public Water System(s) immediately following discovery of the release, and the spill or release shall be reported to the Commission in accordance with Rule 906.b.(3), and to the Environmental Release/Incident Report Hotline (1-877-518-5608) in accordance with Rule 906.b.(4).

**f. Requirements for DCPS Operations at Existing Oil and Gas Locations.**

- (1) Existing Oil and Gas Locations and DCPS Operations at Existing Oil and Gas Locations within a Surface Water Supply Area and within zones specified in Table 1 shall be subject to the following requirements instead of the requirements of Rules 317B.c, 317B.d, or 317B.e provided that no new surface disturbance at the Existing Oil and Gas Location occurs after the later of May 1, 2009 for federal land or April 1, 2009 for all other land or the date Rule 317B became applicable to the ~~oil and gas location~~ Oil and Gas Location:

A. Collection of surface water data from a Classified Water Supply Segment consisting of a sample collected immediately downgradient of the oil and gas operation will occur by the latest of June 1, 2009, within six (6) months after the date Rule 317B became applicable to the ~~oil and gas location~~ Oil and Gas Location, or when sufficient water exists in the stream:

- i. pH;
- ii. Alkalinity;
- iii. Specific conductance;
- iv. Major cations/anions (chloride, fluoride, sulfate, sodium);
- v. Total dissolved solids;
- vi. BTEX/GRO/DRO;
- vii. TPH;
- viii. PAH's (including benzo(a)pyrene); and



- ix. Metals (arsenic, barium, calcium, chromium, iron, magnesium, selenium).

Current applicable EPA-approved analytical methods for drinking water must be used and analyses must be performed by laboratories that maintain state or nationally accredited programs.

Copies of all test results described above shall be provided to the Commission and the potentially impacted Public Water System(s) within three (3) months of collecting the samples. In addition, the analytical results and surveyed sample locations shall be submitted to the Commission in an electronic data deliverable format.

- B. An emergency spill response program that includes employee training, safety, and maintenance provisions and current contact information for downstream Public Water System(s) located within fifteen (15) stream miles of the DCPS Operation, as well as the ability to notify any such downstream Public Water System(s) with intake(s) within fifteen (15) stream miles downstream of the DCPS Operations.

In the event of a spill or release, the operator shall immediately implement the emergency response procedures in the above-described emergency response program.

If a spill or release impacts or threatens to impact a Public Water System, the operator shall notify the affected or potentially affected Public Water System(s) immediately following discovery of the release, and the spill or release shall be reported to the Commission in accordance with Rule 906.b.(3), and to the Environmental Release/Incident Report Hotline (1-877-518-5608) in accordance with Rule 906.b.(4).

- C. Operators shall employ and maintain Best Management Practices, as necessary, to comply with this rule.

- (2) Existing Oil and Gas Locations and DCPS Operations at Existing Oil and Gas Locations within a Surface Water Supply Area and within zones specified in Table 1 for which new surface disturbance occurs on or after the later of May 1, 2009 for federal land or on or after April 1, 2009 for all other land or the date Rule 317B became applicable to the ~~oil and gas location~~ Oil and Gas Location shall be subject to the requirements of Rule 317B.f.(3) instead of the requirements of Rules 317B.c, 317B.d, or 317B.e where the additional new surface disturbance is addressed in a Comprehensive Drilling Plan accepted pursuant to Rule 216, or if:

- A. The new disturbance from the DCPS Operation will not increase the existing disturbed area prior to interim reclamation by more than one hundred (100) percent up to a maximum of three (3) acres, and
- B. The new surface disturbance occurs in a direction away from the stream or no closer to the stream if moving away from the stream would result in more damaging surface disturbance such as location on a steep slope, in an area of high soil erosion potential, or in a wetland.

- (3) Where the provisions of Rule 317B.f.(2) apply, the following zone requirements shall apply:

- A. For all zones, the requirements of Rule 317B.f.(1), except that the sampling parameters in Rule 317B.f.(1).A shall occur no later than six (6) months

after commencing the DCPS Operations at the Existing Oil and Gas Location.

B. For External and Intermediate Buffer Zones: pitless drilling systems or containment of drilling, flowback, and stimulation fluids with impervious liners, as provided in Rule 904.

C. For Internal Buffer Zones:

- i. Pitless drilling systems;
- ii. Flowback and stimulation fluids contained within tanks and placed on a well pad or in an area with downgradient perimeter berming;
- iii. Berms constructed in compliance with Rule ~~603.e.(12)~~ ~~604.d~~604.c.(11) around all crude oil, condensate, and produced water tanks; and
- iv. Notification of potentially impacted Public Water Systems within fifteen (15) stream miles downstream of the DCPS Operation prior to commencement of new surface disturbing activities at the site.

**318A(I). GREATER WATTENBERG AREA SPECIAL WELL LOCATION, SPACING AND UNIT DESIGNATION RULE (EXCEPT THE CITY AND COUNTY OF BROOMFIELD)**

*The provisions of Rule 318A(I)., recited below, pertain to those lands within the Greater Wattenberg Area defined herein, excepting those lands within the City and County of Broomfield, Colorado as it existed on August 8, 2011.*

a. **GWA, GWA wells, GWA windows and unit designations.** The Greater Wattenberg Area ("GWA") is defined to include those lands from and including Townships 2 South to 7 North and Ranges 61 West to 69 West, 6th P.M. In the GWA, operators may utilize the following described surface drilling locations ("GWA windows") to drill, twin, deepen, or recomplete a well ("GWA well") and to commingle any or all of the Cretaceous Age formations from the base of the Dakota Formation to the surface:

- (1) A square with sides four hundred (400) feet in length, the center of which is the center of any governmental quarter-quarter section ("400' window"); and,
- (2) A square with sides eight hundred (800) feet in length, the center of which is the center of any governmental quarter section ("800' window").
- (3) Absent a showing of good cause, which shall include the existence of a surface use or other agreement with the surface owner authorizing a surface well location outside of a GWA window, all surface wellsites shall be located within a GWA window.
- (4) Unit designations.

A. 400' window. When completing a GWA well in a 400' window to a spaced formation, the operator shall designate drilling and spacing units in accordance with existing spacing orders.

- B. 800' window. When completing a GWA well in an 800' window, whether in spaced or unspaced formations, the operator shall: (i) designate drilling and spacing units in accordance with existing spacing orders where units are not smaller than a governmental quarter section; or (ii) form a voluntary drilling and spacing unit consisting of a governmental quarter section; or (iii) where designating a drilling and spacing unit smaller than a governmental quarter section, secure waiver(s) from the operator or from the mineral owners (if the operator is also the holder of the mineral lease) of the lands in the governmental quarter section that are not to be included in the spacing unit; or (iv) apply to the Commission to form an alternate unit or to respace the area.
- C. Unspaced areas and wellbore spacing units. When completing a GWA well to an unspaced formation, the operator shall designate a drilling and spacing unit not smaller than a governmental quarter-quarter section if such well is proposed to be located greater than four hundred sixty (460) feet from the quarter-quarter section boundary in which it is located. If a well is proposed to be located less than four hundred sixty (460) feet from the governmental quarter-quarter section boundary, a wellbore spacing unit ("wellbore spacing unit") for such well shall be comprised of the governmental quarter-quarter sections that are located less than four hundred sixty (460) feet from the wellbore regardless of section or quarter section lines.
- D. Horizontal GWA well. Where a drilling and spacing unit does not exist for a horizontal well, a horizontal wellbore spacing unit shall be designated by the operator for each proposed horizontal well. The horizontal wellbore spacing unit may be of different sizes and configurations depending on lateral length and orientation but shall be comprised of the governmental quarter-quarter sections in which the wellbore lateral penetrates the productive formation as well as any governmental quarter-quarter sections that are located less than four hundred sixty (460) feet from the portion of the wellbore lateral that penetrates the productive zone regardless of section or quarter section lines. However, if the horizontal component of the horizontal wellbore is located entirely within a GWA window, the operator shall designate a drilling and spacing unit in accordance with subsections a.(4)A. and a.(4)B. of this rule. A horizontal wellbore spacing unit may overlap portions of another horizontal wellbore spacing unit or other wellbore spacing unit designated in accordance with subsection a.(4)C. GWA horizontal wells and horizontal wellbore spacing units shall be subject to the notice and hearing procedures as provided for in Rule 318A(I).e.(6).
- b. **Recompletion/commingling of existing wells.** Any GWA well in existence prior to the effective date of this rule, which is not located as described above, may also be utilized for deepening to or recompletion in any Cretaceous Age formation and for the commingling of production therefrom.
- c. **Surface locations.** Prior to the approval of any Application for Permit-to-Drill submitted for a GWA well, the proposed surface well location shall be reviewed in accordance with the following criteria:
- (1) A new surface well location shall be approved in accordance with Commission rules when it is less than fifty (50) feet from an existing surface well location.

- (2) When the operator is requesting a surface well location greater than fifty (50) feet from a well (unless safety or mechanical considerations of the well to be twinned or topographical or surface constraints justify a location greater than fifty (50) feet), the operator shall provide a consent to the exception signed by the surface owner on which the well is proposed to be located in order for the Director to approve the well location administratively.
- (3) If there is no well located within a GWA window but there is an approved exception location well located outside of a GWA window that is attributed to such window, the provisions of subsections (1) and (2) of this subsection c. shall be applicable to such location.

d. **Prior wells excepted.** This rule does not alter the size or configuration of drilling units for GWA wells in existence prior to the effective date of this rule. Where deemed necessary by an operator for purposes of allocating production, such operator may allocate production to any drilling and spacing unit with respect to a particular Cretaceous Age formation consistent with the provisions of this rule.

e. **GWA infill.**

- (1) **Interior infill wells.** Additional bottom hole locations for the “J” Sand, Codell and Niobrara Formations are hereby established greater than four hundred sixty (460) feet from the outer boundary of any existing 320-acre drilling and spacing unit (“interior infill wells”). Pursuant to the well location provisions of subsection a., above, interior infill well locations shall be reached by utilizing directional drilling techniques from the GWA windows.
  - A. If a bottom hole location for an interior infill well is proposed to be located less than four hundred sixty (460) feet from the outer boundary of an existing drilling and spacing unit, a wellbore spacing unit as defined in a.(4)C., above, shall be designated by the operator for such well.
  - B. If a bottom hole location for an interior infill well is proposed to be located greater than four hundred sixty (460) feet from an existing 80-acre or existing 320-acre drilling and spacing unit, the spacing unit for such well shall conform to the existing 80-acre or existing 320-acre drilling and spacing unit.
- (2) **Boundary wells.** Additional bottom hole locations for the “J” Sand, Codell and Niobrara Formations are hereby established less than four hundred sixty (460) feet from the outer boundary of a 320-acre governmental half section or from the outer boundary of any existing 320-acre drilling and spacing unit (“boundary wells”). A wellbore spacing unit as defined in a.(4)C., above, shall be designated by the operator for such well.
- (3) **Additional producing formations.** An operator wanting to complete an interior infill well or boundary well in a formation other than the “J” Sand, Codell, or Niobrara Formations (“additional producing formation”) must request an exception location prior to completing the additional producing formation. The spacing unit dedicated to the exception location shall comply with subsections (1) or (2), above, as appropriate.

(4) **Water well sampling.** Sampling shall be performed pursuant to Rule 609.

~~The Director shall require initial baseline testing prior to the first well proposed within a governmental section. The following shall be used as guidance for the Director in establishing initial baseline testing:~~

- ~~A. Within the governmental quarter section of the proposed well, the closest water well ("water quality testing well") completed in the Laramie/Fox Hills Aquifer shall be sampled.~~
- ~~B. If no Laramie/Fox Hills water wells are located within the governmental quarter section, then the deepest representative water quality testing well within the governmental quarter section of the proposed well shall be sampled.~~
- ~~C. If no water wells are located within the governmental quarter section, a water quality testing well (preferably completed in the Laramie/Fox Hills Aquifer) within one half (½) mile of the proposed well shall be selected.~~
- ~~D. If there are no water quality testing wells that meet the foregoing criteria, then initial baseline testing shall not be required.~~
- ~~E. Initial baseline testing shall include laboratory analysis of all major cations and anions, total dissolved solids, iron and manganese, nutrients (nitrates, nitrites, selenium), dissolved methane, pH, and specific conductance.~~
- ~~F. If free gas or a methane concentration level greater than 2 mg/l is detected in a water quality testing well, compositional analysis shall be performed to determine gas type (thermogenic, biogenic or an intermediate mix of both). If the testing results reveal biogenic gas, no further isotopic testing shall be required. If the testing results reveal thermogenic gas, carbon isotopic analyses of methane carbon shall be conducted. The Director may require further water well sampling at any time as a result of the laboratory results or in response to complaints from water well owners.~~
- ~~G. Copies of all test results described above shall be provided to the Director and the landowner where the water quality testing well is located within three (3) months of collecting the samples used for the test. Laboratory results shall also be submitted to the Director in an electronic format.~~

- (5) Existing production facilities. To the extent reasonably practicable, operators shall utilize existing roads, pipelines, tank batteries and related surface facilities for all interior infill wells and boundary wells.
- (6) Notice and hearing procedures. For proposed boundary wells, wellbore spacing units, and additional producing formations provided by this subsection e., and for proposed horizontal wells and horizontal wellbore spacing units as provided by 318A(I).a.(4)D., the following process shall apply:
  - A. Notice shall be given by certified mail by the operator of a proposed boundary well, wellbore spacing unit, horizontal well or horizontal wellbore spacing unit to all owners in the proposed wellbore spacing unit. Notice shall be given by certified mail by the operator of a proposed additional producing formation to all owners in cornering and contiguous spacing units of the requested completion and the proposed spacing unit; if the additional producing formation is unspaced only the owner in the proposed spacing unit needs to be notified. Notice for a boundary well, wellbore spacing unit, horizontal well or horizontal wellbore spacing

unit shall include a description of the wellbore orientation, the anticipated spud date, the size and shape of the proposed wellbore spacing unit (with depiction attached), the proposed surface and bottom hole locations, identified by footage descriptions, and the survey plat. For proposed horizontal wells and horizontal wellbore spacing units, the operator shall also identify by footage descriptions, the location at which the wellbore penetrates the target formation.

- B. Each owner shall have a thirty (30) day period after receipt of such notice to object in writing to the operator. The written objection must be based upon a claim that the notice provided by the operator does not comply with the informational requirements of subsection A., above, and/or a technical objection that either waste will be caused, correlative rights will be adversely affected, or that the operator is not an “owner”, as defined in the Act, of the mineral estate(s) through which the wellbore penetrates within the target formation. Specific facts must form the basis for such objection. The objecting party shall provide a copy of the written objection to the Director.
- C. If an objection pursuant to subsection B. is timely received, the operator may seek a hearing before the Commission on the objection. The objecting party will bear the burden of proving that the notice provided by the operator does not comply with the informational requirements of subsection A., above, that the operator is not an owner, as defined by the Act, and/or the approval of the boundary well location, wellbore spacing unit, horizontal well, horizontal wellbore spacing unit or additional producing formation would either create waste or adversely affect the objecting party’s correlative rights. The objection may be first presented to the hearing officer of the Commission and such hearing officer, based on the facts, may recommend to the Commission that such objection shall stand or be dismissed.
- D. If the objection stands, the Commission may either enter an order approving or denying the proposed boundary well location, wellbore spacing unit, horizontal well location, horizontal wellbore spacing unit or additional producing formation, with or without conditions. Such conditions may be requisites for the Application for Permit-to-Drill, Form 2, if the operator chooses to proceed with an Application for Permit-to-Drill, Form 2, relative to the proposed boundary well, wellbore spacing unit, horizontal well, horizontal wellbore spacing unit or additional producing formation. If the objection is dismissed, the operator shall treat the objection as withdrawn and otherwise proceed with subsection E. below.
- E. Absent receipt of a timely objection pursuant to subsections A. and B., above, the Director may administratively approve the boundary well, wellbore spacing unit, horizontal well, horizontal wellbore spacing unit or additional producing formation. A location plat evidencing the well location, wellbore spacing unit, or additional producing formation and applicable spacing unit shall be submitted to the Director together with copies of any surface waivers and a certification that no timely objections were received. An Application for Permit-to-Drill, Form 2, specifically identifying that a boundary well, wellbore spacing unit, horizontal well, horizontal wellbore spacing unit or additional producing formation is proposed, shall also be filed with the Director in accordance with Rule 303. within ninety (90) days of the expiration of the thirty (30) day notice period or such notice shall be deemed withdrawn. Should such notice be

withdrawn or deemed withdrawn, the proposed operator shall not submit another notice for the same well or wellbore spacing unit within forty-five (45) days of the date the original notice is withdrawn or deemed withdrawn.

- f. **Limit on locations.** This rule does not limit the number of formations that may be completed in any GWA drilling and spacing unit nor, subject to subsection c., above, does it limit the number of wells that may be located within the GWA windows.
- g. **GWA water sampling.** The Director may apply appropriate drilling permit conditions to require water well sampling near any proposed GWA wells in accordance with the guidelines set forth in ~~subsection e.(4)~~, [above Rule 609](#).
- h. **Waste Management.** In conjunction with filing an Oil and Gas Location Assessment, Form 2A, the operator shall include a waste management plan meeting the general requirements of Rule 907.a.
- i. **Exception locations.** The provisions of Rule 318.c. respecting exception locations shall be applicable to GWA wells, however, absent timely objection, boundary wells, wellbore spacing units, and additional producing formations shall be administratively approved as provided in subsection e.(6) above.
- j. **Correlative rights.** This rule shall not serve to bar the granting of relief to owners who file an application alleging abuse of their correlative rights to the extent that such owners can demonstrate that their opportunity to produce Cretaceous Age formations from the drilling locations herein authorized does not provide an equal opportunity to obtain their just and equitable share of oil and gas from such formations.
- k. **Supersedes orders and policy.** Subject to paragraph d. above, this rule supersedes all prior Commission drilling and spacing orders affecting well location and density requirements of GWA wells. Where the Commission has issued a specific order limiting the number of horizontal wells permitted in a drilling and spacing unit, the well density in such unit shall be governed by that order.
- l. The ~~landowner OGLA notice-Notice~~ provision for the owner(s) of surface property within five hundred (500) feet of the proposed ~~oil and gas location~~ [Oil and Gas Location](#) under Rule 305.e. shall not apply to any such locations that are subject to the provisions of this subsection 318A(l).
- m. **Minimum intrawell distance.** No horizontal wellbore lateral shall be located less than one hundred fifty (150) feet from any existing or permitted oil or gas wellbore as illustrated in the directional survey for drilled wellbores or as illustrated in the deviated drilling plan for permitted wellbores or as otherwise reflected in the COGCC well records. This requirement may be waived in writing by the operator of the encroached upon well.

#### **318A(II). GREATER WATTENBERG AREA SPECIAL WELL LOCATION, SPACING AND UNIT DESIGNATION RULE (THE CITY AND COUNTY OF BROOMFIELD)**

*The provisions of Rule 318A(II)., recited below, pertain to those lands within the Greater Wattenberg Area within the City and County of Broomfield, Colorado as it existed on August 8, 2011.*

- a. **GWA, GWA wells, GWA windows and unit designations.** The Greater Wattenberg Area ("GWA") is defined to include those lands from and including Townships 2 South to 7 North and Ranges 61 West to 69 West, 6th P.M. In the GWA, operators may utilize the following described surface drilling locations ("GWA windows") to drill, twin, deepen, or



recomplete a well ("GWA well") and to commingle any or all of the Cretaceous Age formations from the base of the Dakota Formation to the surface:

- (1) A square with sides four hundred (400) feet in length, the center of which is the center of any governmental quarter-quarter section ("400' window"); and,
- (2) A square with sides eight hundred (800) feet in length, the center of which is the center of any governmental quarter section ("800' window").
- (3) Absent a showing of good cause, which shall include the existence of a surface use or other agreement with the surface owner authorizing a surface well location outside of a GWA window, all surface wellsites shall be located within a GWA window.
- (4) Unit designations.

- i. 400' window. When completing a GWA well in a 400' window to a spaced formation, the operator shall designate drilling and spacing units in accordance with existing spacing orders.

- ii. 800' window. When completing a GWA well in an 800' window, whether in spaced or unspaced formations, the operator shall: (i) designate drilling and spacing units in accordance with existing spacing orders where units are not smaller than a governmental quarter section; or (ii) form a voluntary drilling and spacing unit consisting of a governmental quarter section; or (iii) where designating a drilling and spacing unit smaller than a governmental quarter section, secure waiver(s) from the operator or from the mineral owners (if the operator is also the holder of the mineral lease) of the lands in the governmental quarter section that are not to be included in the spacing unit; or (iv) apply to the Commission to form an alternate unit or to respace the area.

- iii. Unspaced areas and wellbore spacing units. When completing a GWA well to an unspaced formation, the operator shall designate a drilling and spacing unit not smaller than a governmental quarter-quarter section if such well is proposed to be located greater than four hundred sixty (460) feet from the quarter-quarter section boundary in which it is located. If a well is proposed to be located less than four hundred sixty (460) feet from the governmental quarter-quarter section boundary, a wellbore spacing unit ("wellbore spacing unit") for such well shall be comprised of the four (4) governmental quarter-quarter sections nearest to the wellbore regardless of section or quarter section lines.

b. **Recompletion/commingling of existing wells.** Any GWA well in existence prior to the effective date of this rule, which is not located as described above, may also be utilized for deepening to or recompletion in any Cretaceous Age formation and for the commingling of production therefrom.

c. **Surface locations.** Prior to the approval of any Application for Permit-to-Drill submitted for a GWA well, the proposed surface well location shall be reviewed in accordance with the following criteria:

- (1) A new surface well location shall be approved in accordance with Commission rules when it is less than fifty (50) feet from an existing surface well location.

- (2) When the operator is requesting a surface well location greater than fifty (50) feet from a well (unless safety or mechanical considerations of the well to be twinned or topographical or surface constraints justify a location greater than fifty (50) feet), the operator shall provide a consent to the exception signed by the surface owner on which the well is proposed to be located in order for the Director to approve the well location administratively.
- (3) If there is no well located within a GWA window but there is an approved exception location well located outside of a GWA window that is attributed to such window, the provisions of subsections (1) and (2) of this subsection c. shall be applicable to such location.
- d. **Prior wells excepted.** This rule does not alter the size or configuration of drilling units for GWA wells in existence prior to the effective date of this rule. Where deemed necessary by an operator for purposes of allocating production, such operator may allocate production to any drilling and spacing unit with respect to a particular Cretaceous Age formation consistent with the provisions of this rule.
- e. **GWA infill.** This subsection applies to the following area of the GWA: Township 1 North, Ranges 66 West through 68 West; Township 1 North, Range 69 West: E½; Township 2 North, Ranges 64 West through 68 West; Township 2 North, Range 69 West: E½; Township 3 North, Ranges 64 West through 67 West; Township 4 North, Ranges 63 through 67 West; Township 5 North, Ranges 63 West through 67 West; Township 6 North, Ranges 63 West through 66 West, 6th P.M.
- (1) **Interior infill wells.** Additional bottom hole locations for the “J” Sand, Codell and Niobrara Formations are hereby established greater than four hundred sixty (460) feet from the outer boundary of any existing 320-acre drilling and spacing unit (“interior infill wells”). Pursuant to the well location provisions of subsection a., above, interior infill well locations shall be reached by utilizing directional drilling techniques from the GWA windows.
- A. If a bottom hole location for an interior infill well is proposed to be located less than four hundred sixty (460) feet from the outer boundary of an existing drilling and spacing unit, a wellbore spacing unit as defined in a.(4)C., above, shall be designated by the operator for such well.
- B. If a bottom hole location for an interior infill well is proposed to be located greater than four hundred sixty (460) feet from an existing 80-acre or existing 320-acre drilling and spacing unit, the spacing unit for such well shall conform to the existing 80-acre or existing 320-acre drilling and spacing unit.
- (2) **Boundary wells.** Additional bottom hole locations for the “J” Sand, Codell and Niobrara Formations are hereby established less than four hundred sixty (460) feet from the outer boundary of a 320-acre governmental half section or from the outer boundary of any existing 320-acre drilling and spacing unit (“boundary wells”). A wellbore spacing unit as defined in a.(4)C., above, shall be designated by the operator for such well.
- (3) **Additional producing formations.** An operator wanting to complete an interior infill well or boundary well in a formation other than the “J” Sand, Codell, or Niobrara Formations (“additional producing formation”) must request an exception location prior to completing the additional producing formation. The spacing unit dedicated to the exception location shall comply with subsections (1) or (2), above, as appropriate.

- (4) **Water well sampling.** Sampling shall be performed pursuant to Rule 609. ~~The Director shall require initial baseline testing prior to the first interior infill well or boundary well ("proposed GWA infill well") drilled within a governmental section. The following shall be used as guidance for the Director in establishing initial baseline testing:~~
- ~~A. Within the governmental quarter section of the proposed GWA infill well, the closest water well ("water quality testing well") completed in the Laramie/Fox Hills Aquifer shall be sampled.~~
  - ~~B. If no Laramie/Fox Hills water wells are located within the governmental quarter section, then the deepest representative water quality testing well within the governmental quarter section of the proposed GWA infill well shall be sampled.~~
  - ~~C. If no water wells are located within the governmental quarter section, a water quality testing well (preferably completed in the Laramie/Fox Hills Aquifer) within one-half (½) mile of the proposed GWA infill well shall be selected.~~
  - ~~D. If there are no water quality testing wells that meet the foregoing criteria, then initial baseline testing shall not be required.~~
  - ~~E. Initial baseline testing shall include laboratory analysis of all major cations and anions, total dissolved solids, iron and manganese, nutrients (nitrates, nitrites, selenium), dissolved methane, pH, and specific conductance.~~
  - ~~F. If free gas or a methane concentration level greater than 2 mg/l is detected in a water quality testing well, compositional analysis shall be performed to determine gas type (thermogenic, biogenic or an intermediate mix of both). If the testing results reveal biogenic gas, no further isotopic testing shall be required. If the testing results reveal thermogenic gas, carbon isotopic analyses of methane carbon shall be conducted. The Director may require further water well sampling at any time as a result of the laboratory results or in response to complaints from water well owners.~~
  - ~~G. Copies of all test results described above shall be provided to the Director and the landowner where the water quality testing well is located within three (3) months of collecting the samples used for the test. Laboratory results shall also be submitted to the Director in an electronic format.~~
- (5) Existing production facilities. To the extent reasonably practicable, operators shall utilize existing roads, pipelines, tank batteries and related surface facilities for all interior infill wells and boundary wells.
- (6) Notice and hearing procedures. For proposed boundary wells, wellbore spacing units, and additional producing formations provided by this subsection e., the following process shall apply:
- A. Notice shall be given by certified mail by the operator of a proposed boundary well or wellbore spacing unit to all owners in the proposed wellbore spacing unit. Notice shall be given by certified mail by the operator of a proposed additional producing formation to all owners in

cornering and contiguous spacing units of the requested completion and the proposed spacing unit; if the additional producing formation is unspaced only the owner in the proposed spacing unit needs to be notified.

B. Each owner shall have a twenty (20) day period after receipt of such notice to object in writing to the operator to such well location, proposed spacing unit, or additional producing formation. If a timely objection is received, the matter shall be set on the docket at the next available Commission hearing. Absent receipt of an objection by the operator from an owner within such twenty (20) day period, the Director may administratively approve the boundary well, wellbore spacing unit, or additional producing formation, provided that it does not exceed eight (8) producing completions in the "J" Sand, Codell or Niobrara Formations in the 160-acre governmental quarter section as set forth in subsection f. below. A location plat evidencing the well location, wellbore spacing unit, or additional producing formation and applicable spacing unit shall be submitted to the Director together with copies of any surface waivers and a certification that no timely objections were received. An Application for Permit-to-Drill, Form 2, specifically identifying that a boundary well, a wellbore spacing unit, or an additional producing formation is proposed, shall also be filed with the Director in accordance with Rule 303.

(7) The Commission shall review the effectiveness of this subsection e. no later than March 1, 2008 and may require operators to submit data related to infill drilling performed under this subsection.

f. **Limit on locations.** This rule does not limit the number of formations that may be completed in any GWA drilling and spacing unit nor, subject to subsection c., above, does it limit the number of wells that may be located within the GWA windows. However, absent Commission order otherwise, there shall be no more than eight (8) producing completions in the "J" Sand, Codell or Niobrara Formations in any 160-acre governmental quarter section.

g. **GWA water sampling.** The Director may apply appropriate drilling permit conditions to require water well sampling near any proposed GWA wells in accordance with the guidelines set forth in ~~subsection e.(4), above~~ [Rule 609](#).

h. **Exception locations.** The provisions of Rule 318.c. respecting exception locations shall be applicable to GWA wells, however, absent timely objection, boundary wells, wellbore spacing units, and additional producing formations shall be administratively approved as provided in subsection e.(6) above.

i. **Correlative rights.** This rule shall not serve to bar the granting of relief to owners who file an application alleging abuse of their correlative rights to the extent that such owners can demonstrate that their opportunity to produce Cretaceous Age formations from the drilling locations herein authorized does not provide an equal opportunity to obtain their just and equitable share of oil and gas from such formations.

j. **Supersedes orders and policy.** Subject to paragraph d. above, this rule supersedes all prior Commission drilling and spacing orders affecting well location and density requirements of GWA wells and supersedes and replaces the "Policy on Staff Administrative Application of the Greater Wattenberg Area Well Location Rule 318A.," dated April 26, 1999.

- k. The ~~landowner notice~~ OGLA Notice provision for the owner(s) of surface property within five hundred (500) feet of the proposed ~~oil and gas location~~ Oil and Gas Location under Rule 305.e. shall not apply to any such locations that are subject to the provisions of this subsection 318A(II).

### **321. DIRECTIONAL DRILLING**

If an operator intends to drill a horizontal or deviated wellbore utilizing controlled directional drilling methods, other than whipstocking due to hole conditions, the plans shall accompany an application for Permit-to-Drill, Form 2. In addition to the information required on the plat in Rule 303.~~e-a.(5).~~, the plat shall also show the surface and bottom hole location. If the surface location is in a different section than the bottom hole location, a plat depicting each section is required. Additionally, the proposed directional survey including two (2) wellbore deviation plots, one depicting the plan view and one depicting the side view, shall accompany the application.

Within thirty (30) days of completion the operator shall submit a Drilling Completion Report, Form 5, according to Rule 308., with a copy of the directional survey coordinate listing and the wellbore deviation plots (plan and side views). The survey data shall be provided in a single analysis report with sufficient detail to determine the location of the wellbore from the base of the surface casing to the kick off point and from that point to total depth. It shall be the operator's responsibility to ensure that the wellbore complies with the setback requirements in Commission orders or rules prior to producing the well.

## **RULES OF PRACTICE AND PROCEDURE**

### **503. ALL OTHER PROCEEDINGS COMMENCED BY FILING AN APPLICATION**

- a. All proceedings other than those initiated by the Commission or variance requests submitted for Director approval shall be commenced by filing with the Commission the original and thirteen (13) copies of a typewritten or printed petition which shall be titled "application." The application shall also be submitted on compatible electronic media. The application shall set forth in reasonable detail the relief requested and the legal and factual grounds for such relief. The original of the application shall be executed by a person with authority to do so on behalf of the applicant, and the contents thereof shall be verified by a party with sufficient knowledge to confirm the facts contained therein. With the exception of those from state and local government agencies, each application shall be accompanied by a docket fee established by the Commission (see Appendix III), except applications seeking an order finding violation or an emergency order.
- b. Applications to the Commission may be filed by the following applicants:
- (1) For purposes of applications for the creation of drilling units, applications for additional wells within existing drilling units, other applications for modifications to existing drilling unit orders, or applications for exceptions to Rule 318., only those owners within the proposed drilling unit, or within the existing drilling unit to be affected by the application, may be applicants.
  - (2) For purposes of applications for involuntary pooling orders made pursuant to §34-60-116, C.R.S., only those persons who own an interest in the mineral estate of the tracts to be pooled may be applicants.

- (3) For purposes of applications for unitization made pursuant to §34-60-118, C.R.S., only those persons who own an interest in the mineral estate underlying the tract or tracts to be unitized may be applicants.
  - (4) For purposes of seeking an order finding violation, only the Director or a party who made a complaint under Rule 522. may be an applicant.
  - (5) For purposes of seeking a variance from the Commission, only the operator, mineral owner, surface owner or tenant of the lands which will be affected by such variance, other state agencies, any local government within whose jurisdiction the affected operation is located, or any person who may be directly and adversely affected or aggrieved if such variance is not granted, may be an applicant.
  - (6) For purposes of seeking a hearing pursuant to Rules 216.f.(4), 303.ec.-(2), or 303.mj.(2), the operator seeking approval of the Application for Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, may be the applicant.
  - (7) For purposes of seeking a hearing on approval of an Application for Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, under Rule 305.d.(2), any of the following may be the applicant:
    - A. The operator;
    - B. The surface owner, solely to raise alleged noncompliance with Commission rules or statute, or to allege potential adverse impacts to public health, safety, and welfare, including the environment and wildlife resources, that are within the Commission's jurisdiction to remedy; and
    - C. The relevant local government, provided that the hearing shall be conducted in similar fashion as is specified in Rules 508.j, 508.k, and 508.l with respect to a public issues hearing. It shall be the burden of the local government to bring forward evidence sufficient for the Commission to make the preliminary findings specified in Rule 508.j at the outset of such hearing.
  - (8) For purposes of seeking a hearing on provisions related to measurement pursuant to Rule 328 or 329, the mineral interest owner may be the applicant.
  - (9) For purposes of seeking a hearing for an order limiting surface density pursuant to Rule 1202.d.(5), the operator shall be the applicant.
  - (10) For purposes of seeking relief or a ruling from the Commission on any other matter not described in (1) through (9) above, only persons who can demonstrate that they are directly and adversely affected or aggrieved by the conduct of oil and gas operations or an order of the Commission and that their interest is entitled to legal protection under the Act may be an applicant.
- c. Applications subject to the requirements for local public forums under Rule 508.a. shall be accompanied by a proposed plan (the "Proposed Plan") to address protection of public health, safety, and welfare, including the environment and wildlife resources, and a description of the current surface occupancy/use. The Proposed Plan shall include the rules and regulations of the Commission as they are applied to oil and gas operations in the application lands along with any procedures or conditions the applicant will voluntarily



follow to address the protection of public health, safety, and welfare, including the environment and wildlife resources.

- d. Upon the filing of an application, the Secretary shall set the matter for hearing and ensure that notice is given.
- e. No later than seven (7) days after the application is filed, the applicant shall submit to the Commission a certificate of service demonstrating that the applicant served a copy of the application on all persons entitled to notice pursuant to these rules by mailing a copy thereof, first-class postage prepaid, to the last known mailing address of the person to be served, or by personal delivery. The applicant shall at the same time submit to the Commission a list of all persons entitled to notice pursuant to these rules on compatible electronic media. If the applicant is unable to submit an electronic media list of persons noticed the applicant shall submit a written list of persons noticed no later than seven (7) days after the application is filed.
- f. The applicant shall enjoy a rebuttable presumption that it has properly served notice on persons entitled to notice of the proceeding by demonstrating through certification or testimony that notice was provided pursuant to Rules 507. and 508.
- g. In order to continue to receive copies of the pleadings filed in a specific proceeding a party who receives notice of the application shall file with the Secretary a protest or intervention in accordance with these rules.
- h. Subsequent to the initiation of a proceeding, all pleadings filed by any party shall be offered by filing with the Secretary the original and thirteen (13) copies bearing the cause number assigned to such proceeding. Each pleading shall include the certificate of the party filing the pleading that the pleading has been served on all persons who have filed a protest or intervention in accordance with these rules, by mailing a copy thereof, first-class postage prepaid, to the last known mailing address of the person to be served, or by personal delivery.

## **E&P WASTE MANAGEMENT**

### **906. SPILLS AND RELEASES**

- a. **General.** Spills/releases of E&P waste, including produced fluids, shall be controlled and contained immediately upon discovery to protect the environment, public health, safety, and welfare, and wildlife resources. Impacts resulting from spills/releases shall be investigated and cleaned up as soon as practicable. The Director may require additional activities to prevent or mitigate threatened or actual significant adverse environmental impacts on any air, water, soil or biological resource, or to the extent necessary to ensure compliance with the concentration levels in Table 910-1, with consideration to WQCC ground water standards and classifications.
- b. **Reportable spills and reporting requirements for spills/releases.**
  - (1) Spills/releases of E&P waste or produced fluid exceeding five (5) barrels, including those contained within lined or unlined berms, shall be reported on COGCC Spill/Release Report, Form 19.

- (2) Spills/releases which exceed twenty (20) barrels of an E&P waste shall be reported on COGCC Spill/Release Report, Form 19, and shall also be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.
  - (3) Spills/releases of any size which impact or threaten to impact any waters of the state, residence or occupied structure, livestock, or public byway shall be reported on COGCC Spill/Release Report, Form 19, and shall also be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours, after discovery.
  - (4) Spills/releases of any size which impact or threaten to impact any surface water supply area shall be reported to the Director and to the Environmental Release/Incident Report Hotline (1-877-518-5608). Spills and releases that impact or threaten a surface water intake shall be verbally reported to the emergency contact for that facility immediately after discovery.
  - (5) For all reportable spills, operators shall submit a Spill/Release Report, Form 19, within ten (10) days after discovery. An 8 1/2 x 11 inch topographic map showing the governmental section and location of the spill shall be included. Such report shall also include information relating to initial mitigation, site investigation, and remediation. The Director may require additional information.
  - (6) Chemical spills and releases shall be reported in accordance with applicable state and federal laws, including the Emergency Planning and Community Right-to-Know Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Oil Pollution Act, and the Clean Water Act, as applicable.
- c. **Surface owner notification and consultation.** The operator shall notify the affected surface owner or the surface owner's appointed tenant of reportable spills as soon as practicable, but not more than twenty-four (24) hours, after discovery. The operator also shall make good faith efforts to notify and consult with the affected surface owner, or the surface owner's appointed tenant, prior to commencing operations to remediate E&P waste from a spill/release in an area not being utilized for oil and gas operations.
- d. **Remediation of spills/releases.** When threatened or actual significant adverse environmental impacts on any air, water, soil or other environmental resource from a spill/release exists or when necessary to ensure compliance with the concentration levels in Table 910-1, with consideration to WQCC ground water standards and classifications, the Director may require operators to submit a Site Investigation and Remediation Workplan, Form 27. Such spills/releases shall be remediated in accordance with Rules 909. and 910.

e. **Spill/release prevention.**

- (1) **Secondary containment.** Secondary containment that was constructed before May 1, 2009 on federal land, or before April 1, 2009 on other land, shall comply with the rules in effect at the time of construction. Secondary containment constructed on or after May 1, 2009 on federal land, or on or after April 1, 2009 on other land shall be constructed or installed around all tanks containing oil, condensate, or produced water with greater than 3,500 milligrams per liter (mg/l) total dissolved solids (TDS) and shall be sufficient to contain the contents of the largest single tank and sufficient freeboard to contain precipitation. Secondary containment structures shall be sufficiently impervious to contain discharged material. Operators are also subject to tank and containment requirements under Rules ~~603. and 604~~ 604 and 605. This requirement shall not apply to water tanks with a capacity of fifty (50) barrels or less.
- (2) **Spill/release evaluation.** Operators shall determine the cause of a spill/release, and, to the extent practicable, shall implement measures to prevent spills/releases due to similar causes in the future. For reportable spills, operators shall submit this information to the Director on the Spill/Release Report, Form 19, within ten (10) days after discovery of the spill/release.

## PIPELINE REGULATIONS

### 1102. OPERATIONS, MAINTENANCE, AND REPAIR

c. **Marking.**

- (1) In designated ~~high density areas~~ an urbanized area, and where crossing public rights-of-way or utility easement, a marker shall be installed and maintained to identify the location of pipelines.

## PROTECTION OF WILDLIFE RESOURCES

### 1202. CONSULTATION

- a. The purpose of consultation under Rule 306.c is to allow the Director to determine whether conditions of approval are necessary to minimize adverse impacts from the proposed oil and gas operations in the identified sensitive wildlife habitat or restricted surface occupancy area, in an order increasing well density, or in a basin-wide order involving wildlife resource issues and to evaluate requests for variances from the provisions of the 1200-Series Rules. For purposes of this rule, minimize adverse impacts shall mean wherever reasonably practicable, to (i) avoid adverse impacts from oil and gas operations on wildlife resources, (ii) minimize the extent and severity of those impacts that cannot be avoided, (iii) mitigate the effects of unavoidable remaining impacts, and (iv) take into consideration cost-effectiveness and technical feasibility with regard to actions taken and decisions made to minimize adverse impacts to wildlife resources, consistent with the other provisions of the Act.
- b. Unless excepted as set forth in Rule 1202.d, when a proposed new ~~oil and gas location~~ Oil and Gas Location is located in sensitive wildlife habitat or a restricted surface occupancy area, the Colorado ~~Division of Wildlife~~ Parks and Wildlife shall consult with the operator,

the surface owner, and the Director in accordance with Rule 306.c prior to approval of a Form 2A to identify possible conditions of approval.

c. Any conditions of approval resulting from such consultation shall be guided by the list of Best Management Practices for Wildlife Resources maintained on the Commission website. In selecting conditions of approval from such Best Management Practices or other sources, the Director shall consider the following factors, among other considerations:

- (1) The Best Management Practices for the producing geologic basin in which the ~~oil and gas location~~ Oil and Gas Location is situated;
- (2) Site-specific and species-specific factors of the proposed new ~~oil and gas location~~ Oil and Gas Location;
- (3) Anticipated direct and indirect effects of the proposed ~~oil and gas location~~ Oil and Gas Location on wildlife resources;
- (4) The extent to which conditions of approval will promote the use of existing facilities and reduction of new surface disturbance;
- (5) The extent to which legally accessible, technologically feasible, and economically practicable alternative sites exist for the proposed new ~~oil and gas location~~ Oil and Gas Location;
- (6) The extent to which the proposed oil and gas operations will use technology and practices which are protective of the environment and wildlife resources;
- (7) The extent to which the proposed ~~oil and gas location~~ Oil and Gas Location minimizes surface disturbance and habitat fragmentation;
- (8) The extent to which the proposed ~~oil and gas location~~ Oil and Gas Location is within land used for residential, industrial, commercial, agricultural, or other purposes, and the existing disturbance associated with such use; and
- (9) Permit conditions, lease terms, and surface use agreements that predate December 11, 2008.

d. Consultation under Rule 306.c shall not be required if:

- (1) The Director or Commission has previously approved a Form 2A or Comprehensive Drilling Plan which includes the proposed new ~~oil and gas location~~ Oil and Gas Location;
- (2) The Colorado ~~Division of Wildlife~~ Parks and Wildlife has previously approved, in writing, a wildlife mitigation plan or other wildlife protection or conservation plan that remains in effect for the area that includes the proposed new ~~oil and gas location~~ Oil and Gas Location and the ~~oil and gas location~~ Oil and Gas Location is in compliance with such plan;
- (3) The operator demonstrates that the identified habitat and/or species, where applicable, is not in fact present to support the identified species and use, such as where the proposed ~~oil and gas location~~ Oil and Gas Location is located in a ~~high-density-an urbanized area, designated pursuant to Rule 603.b,~~ or within an incorporated homeowners association or city or town limits;

- (4) The proposed new well would involve a one-time increase in surface disturbance of one (1) acre or less per well site at or immediately adjacent to an existing well site;
  - (5) The operator applies for and obtains a Commission order pursuant to Rule 503 providing that there will not be more than three (3) well sites per section, with ground disturbing activity during the period from January 1 to March 31 (or other biologically appropriate alternative period up to ninety (90) consecutive days as determined by the Director for bighorn sheep winter range, elk production areas, bald or golden eagle nest or roost sites, columbian or plains sharp-tailed grouse production areas, greater or Gunnison sage grouse production areas, black-footed ferret release areas, or lesser prairie chicken production areas) limited to one (1) such well site, as determined by the Director. This exemption from consultation shall not apply to operations in occupied greater sage grouse sensitive wildlife habitat in Moffat, Routt, or Jackson Counties or in occupied Gunnison sage grouse sensitive wildlife habitat in Delta, Mesa, Gunnison, San Miguel, Dolores, or Montezuma Counties;
  - (6) The Director grants a variance pursuant to Rule 502.b; or
  - (7) The Colorado ~~Division of Wildlife~~Parks and Wildlife waives the consultation requirement.
- e. No permit-specific condition of approval for wildlife habitat protection under this rule shall be imposed without surface owner consent, including any permit-specific conditions for wildlife habitat protection that modify, add to, or differ materially from the general operating requirements in Rules 1203 and 1204. If the surface owner fails to consent to any such permit-specific condition of approval, then the parties shall consult with the surface owner regarding alternative conditions of approval acceptable to the surface owner.

#### **1204. OTHER GENERAL OPERATING REQUIREMENTS**

- a. The operating requirements identified below shall apply in all areas.
- (1) In black bear habitat west of Interstate 25 and on Raton Mesa east of Interstate 25, operators shall install and utilize bear-proof dumpsters and trash receptacles for food-related trash at all facilities that generate such trash.
  - (2) In designated Cutthroat Trout habitat, as identified on the Colorado ~~Division of Wildlife~~Parks and Wildlife Species Activity Mapping (SAM) system, operators shall disinfect water suction hoses and water transportation tanks withdrawing from or discharging into surface waters (other than contained pits) used previously in another river, lake, pond, or wetland and discard rinse water in an approved disposal facility. Disinfection practices shall be repeated after completing work or before moving to the next water body. Disinfection may be performed by removing mud and debris and then implementing one of the following practices:
    - A. Spray/soak equipment with a disinfectant solution capable of killing whirling disease spores; or

B. Spray/soak equipment with water greater than 140 degrees Fahrenheit for at least 10 minutes.

(3) To minimize adverse impacts to wildlife resources, plan new transportation networks and new oil and gas facilities to minimize surface disturbance and the number and length of oil and gas roads and utilize common roads, rights of way, and access points to the extent practicable, consistent with these rules, an operator's operational requirements, and any requirements imposed by federal and state land management agencies, local government regulations, and surface use agreements and other surface owner requirements, and taking into account cost effectiveness and technical feasibility.

(4) Establish new staging, refueling, and chemical storage areas outside of riparian zones and floodplains.

(5) Use minimum practical construction widths for new rights-of-way where pipelines cross riparian areas, streams, and critical habitats.

b. **Exceptions.** If the operator believes that any of the foregoing operating requirements should be waived for any proposed ~~oil and gas location~~ Oil and Gas Location, it shall so specify in a Form 2A for Director consideration.

## 1205. REQUIREMENTS IN RESTRICTED SURFACE OCCUPANCY AREAS

a. Operators shall avoid Restricted Surface Occupancy areas to the maximum extent technically and economically feasible when planning and conducting new oil and gas development operations, except:

(1) When authorized following consultation under Rule 306.c.(3);

(2) When authorized by a Comprehensive Drilling Plan;

(3) Upon demonstration that the identified habitat is not in fact present;

(4) When specifically exempted by the Colorado ~~Division of Wildlife~~ Parks and Wildlife; or

(5) In the event of situations posing a risk to public health, safety, welfare, or the environment.

b. As set forth in Rule 1205.a, new ground disturbing activities are to be avoided in Restricted Surface Occupancy areas, including construction, drilling and completion, non-emergency workovers, and pipeline installation activity, to minimize adverse impacts to wildlife resources. Production, routine maintenance, repairs and replacements, emergency operations, reclamation activities, or habitat improvements are not prohibited in Restricted Surface Occupancy areas. Notwithstanding the foregoing, non-emergency workovers, including uphole recompletions, may be performed with prior approval of the Director on a schedule that minimizes adverse impacts to the species for which the restricted surface occupancy area exists.

c. **Applicability.** The requirements of Rule 1205 are not applicable to Applications for Permit-to-Drill, Form 2, or Oil and Gas Location Assessments, Form 2A, which are approved prior to May 1, 2009 on federal land or April 1, 2009 on all other land. The requirements of Rule 1205 are also not applicable until January 1, 2010, for any proposed ~~oil and gas~~



| ~~location~~ Oil and Gas Location in a Restricted Surface Occupancy area where the  
operator has in good faith initiated and is diligently pursuing consultation on the proposed  
| ~~oil and gas location~~ Oil and Gas Location begun prior to May 1, 2009 on federal land or  
April 1, 2009 on all other land, pursuant to Rule 306.c or Rule 216.

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