

DEFINITIONS 100 SERIES

COMMUNITY LIASION means the person dedicated as a resource for Disproportionately Impacted Communities regarding Commission operations.

CUMULATIVE IMPACTS means the addressable combined impacts from Oil and Gas Operations on public health and the environment, including the impacts on air quality, water quality, the climate, noise, odor, wildlife, and biological resources and to Disproportionately Impacted Communities. In evaluating Cumulative Impacts, the Commission may consider the incremental impact from proposed Oil and Gas Operations when added to other potentially significant land uses within 1 mile of a proposed Oil and Gas Location, including Industrial and Manufacturing Operations that have pending or approved permits, or are in current operation.

CUMULATIVELY IMPACTED COMMUNITY means a community where multiple factors, including socioeconomic stressors, vulnerable populations, disproportionate environmental burdens, vulnerability to environmental degradation or climate change, and lack of public participation may act cumulatively to affect health and the environment and may contribute to persistent disparities, as set forth in § 24-4-109(2)(b)(II)(F), C.R.S., and identified pursuant to § 24-4-109(5)(a), C.R.S. (2023) as having a score above the eightieth percentile in the Colorado EnviroScreen tool.

DISPROPORTIONATELY IMPACTED COMMUNITY means those communities that meet the definition contained in § 24-4-109(2)(b)(II), C.R.S. (2023).

GREENHOUSE GAS INTENSITY TARGETS means the greenhouse gas intensity targets for Oil and Gas Operations established in AQCC Regulation No. 7, Control of Emissions from Oil and Gas Operations, 5 C.C.R. §§ 1001-9:B.VIII.B & C (hereinafter "AQCC Regulation No. 7 GHG Intensity Targets"). Only the version of the AQCC Regulation No. 7 GHG Intensity Targets in effect as of April 28, 2024 applies; later versions do not apply. All materials incorporated by reference in this Rule are 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, CO 80203. In addition, the AQCC Regulation No. 7 GHG Intensity Targets Rule is available from the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive, Denver, CO 80246, and is available online at <https://cdphe.colorado.gov/aqcc-regulations>.

IMPACTS TO CLIMATE means the quantification of emissions of greenhouse gases, as defined in § 25-7-140(6), C.R.S. (2023), that occur from sources that are controlled or owned by the Operator and reasonably foreseeable truck traffic at an Oil and Gas Location.

INDUSTRIAL FACILITY means a facility that conducts industrial or manufacturing operations.

INDUSTRIAL AND MANUFACTURING OPERATIONS means operations by oil and gas producers, energy producers, refineries, meat packing plants, dairies, steel mills, cement plants, manufacturing operations, mining operations, and airline operations; and at airports, wastewater treatment plants, landfills, and abandoned coal mines.

NO_x means oxides of nitrogen.

NO_x INTENSITY TARGET means the NO_x intensity targets for Oil and Gas Operations established in AQCC Regulation No. 7, Control of Emissions from Oil and Gas Operations, 5 C.C.R. § 1001-9:B.VI.E.2 (hereinafter "AQCC Regulation No. 7 NO_x Intensity Target"). Only the version of the AQCC Regulation No. 7 NO_x Intensity Target in effect as of April 28, 2024 applies; later versions do not apply. All materials incorporated by reference in this Rule are 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, CO 80203. In addition, the AQCC Regulation No. 7 NO_x Intensity Target Rule is available from the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive, Denver, CO 80246, and is available online at <https://cdphe.colorado.gov/aqcc-regulations>.

January 17, 2024 DRAFT Colorado Energy & Carbon Management Commission Cumulative Impacts Rules.

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OZONE NONATTAINMENT AREA means the 8-Hour Ozone Control Area, Denver 1-Hour Ozone Attainment/Maintenance Area, and Northern Weld County, as defined in AQCC Regulation No. 7, Control of Emissions from Oil and Gas Operations, 5 C.C.R. § 1001-9:B.II.A.1–3 (hereinafter (“AQCC Regulation No. 7 Ozone Area Definitions”). Only the version of the AQCC Regulation No. 7 Ozone Area Definitions in effect as of April 28, 2024 applies; later versions do not apply. All materials incorporated by reference in this Rule are 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, CO 80203. In addition, the AQCC Regulation No. 7 Ozone Area Definitions are available from the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive, Denver, CO 80246, and is available online at <https://cdphe.colorado.gov/aqcc-regulations>.

GENERAL PROVISIONS
200 SERIES

224. COMMUNITY LIASION

a. Authority. The Community Liaison serves as a resource for Disproportionately Impacted Communities. Specifically, the Community Liaison will:

- (1)** Work to improve the relationships and interactions between Disproportionately Impacted Communities and Commission;
- (2)** Be a resource for information between the Commission and Disproportionately Impacted Communities;
- (3)** Engage in outreach to Disproportionately Impacted Communities through including, but not limited to, local schools, local social and activity clubs, libraries, or other local services; and
- (4)** Organize and attend in-person meetings in communities in Disproportionately Impacted Communities with Oil and Gas Operations.

**PERMITTING PROCESS
300 SERIES**

301. GENERAL REQUIREMENTS FOR APPROVAL, CHANGES TO OPERATIONS, AND FILING FEES FOR OIL AND GAS OPERATIONS

f. Coordination with Local Governments and Federal Agencies.

- (1) **Purpose.** The Commission, Local Governments, and federal surface management agencies all share authority to require permits for the surface impacts of Oil and Gas Operations. Recognizing that each permitting authority brings its own, unique expertise in reviewing a permit, the Commission supports creating coordinated, efficient processes among the permitting authorities.
- (2) **Concurrent Permitting.** Where possible, the Commission prefers Operators to follow the concurrent permit review process pursuant to Rule 303.a.(67).A to allow each permitting authority to coordinate sharing its unique expertise and standards.
- ~~(3) **Pre-Application Consultation.** Prior to an Operator submitting an Oil and Gas Development Plan or Form 2A to the Commission, at the request of the Relevant Local Government or federal agency, the Director will participate in a Formal Consultation Process with the Relevant Local Government or federal agency and the Operator to discuss Oil and Gas Location siting, alternative location analysis, Best Management Practices, conditions of approval, anticipated milestones and events in the state and federal or local permitting processes, opportunities for collaboration, and other related topics regarding the Operator's planned development within the Relevant Local Government's or federal agency's jurisdiction.~~
- ~~(4)~~**(3) Sequential Permitting.** An Operator may pursue a permit from the federal government or a Relevant Local Government before applying for an Oil and Gas Development Plan pursuant to Rule 303.
 - A. If the Operator chooses to seek a permit from the federal government or a Relevant Local Government before applying for an Oil and Gas Development Plan, during the course of the federal or Local Government permit review process, for any proposed location that meets one or more of the criteria in Rule 304.b.(2).B the Operator may submit an alternative location analysis to the Director that meets the criteria of Rule 304.b.(2).C.
 - B. If the Operator provides the Director with an alternative location analysis pursuant to Rule 301.f.(4).A, the Director will participate in a Formal Consultation Process with the Operator and the Relevant Local Government or federal agency about the proposed alternative locations prior to the Operator submitting a permit application to the Commission.
 - C. To promote the resolution of issues to the extent possible, a Relevant Local Government or federal agency may request that the Director participate as a referral agency in a Formal Consultation Process about proposed alternative locations for any location that meets the criteria of Rule 304.b.(2).B. If the Director receives such a request, the Operator will provide the Director with an alternative location analysis that meets the criteria of Rule 304.b.(2).C that may be used as a basis for the Formal Consultation Process. If the Director receives such a request, the Director will use best efforts to identify any potential conflicts, differences, or concerns that may exist regarding the proposed location(s) and the Commission's Rules.

g. Pre-Application Consultation. An Operator will request and participate in a pre-application consultation with the Director Prior to thean Operator submitting an Oil and Gas Development Plan or Form 2A to the Commission, at the request of the Relevant Local Government or federal agency, the

(1) The pre-application consultation process is a Formal Consultation Process that includes the Operator, the Director, and the following entities, as provided in Rules 301.g.(2) & (3):

A. All Relevant Local Government(s);

B. All Proximate Local Government(s);

C. Any federal agency with jurisdiction over the application lands or minerals;

D. CDPHE;

E. CPW;

F. Any resident (including owners, agents, or tenants) of a Residential Building Unit or High Occupancy Building Unit if a proposed Location is within 2,000 feet of that Unit; and/or

G. The Community Liaison.

(2) The Director will participate in a Formal Consultation Processpre-application consultation with the Relevant Local Government or federal agency, the Proximate Local Government, any federal agency with jurisdiction over the application lands or minerals, and the Operator to discuss Oil and Gas Location siting, alternative location analysis, Best Management Practices, conditions of approval, anticipated milestones and events in the state and federal or local permitting processes, opportunities for collaboration, and other related topics regarding the Operator's planned development within the Relevant Local Government's or federal agency's jurisdiction.

(3) Purpose of Coordination with State Agencies and Potentially Impacted Residents. The Commission, state agencies, and potentially impacted residents all share an interest in a transparent and publicly accessible permitting process for Oil and Gas Operations that provides equitable opportunities for all affected persons to participate. Accordingly, the Commission supports involving state agencies and potentially impacted residents in the pre-application consultation Formal Consultation Process to facilitate robust participation from the communities most impacted by permitting decisions regarding Oil and Gas Operations.

A. The Director will seek pre-application consultation with CDPHE if:

i. A proposed Location is within a Disproportionately Impacted Community, or

ii. A proposed Location is within 2,000 feet of any Residential Building Unit, High Occupancy Building Unit, School, School Facility, or Child Care Center.

B. The Director may request pre-application consultation with CDPHE if the Director reasonably believes that such consultation would assist the Director in understanding the potential risks to public health, safety, welfare, or the environment.

C. The Director will consultconduct pre-application consultation with CPW if a proposed Location is within High Priority Habitat.

- D. The Operator will seek pre-application consultation with any resident (including owners, agents, or tenants) of a Residential Building Unit or High Occupancy Building Unit if a proposed Location is within 2,000 feet of that Unit. If any such Residential Building Unit or High Occupancy Building Unit is within a Disproportionately Impacted Community, the Community Liaison will participate in the consultation.

302. LOCAL GOVERNMENTS

- g. **Local Government Consultation.** Within 45 days after an Operator provides notice of a proposed Oil and Gas Development Plan pursuant to Rule 302.e, and prior to the Director making a Director's Recommendation that the Commission approve or deny the Oil and Gas Development Plan, Relevant Local Governments or Proximate Local Governments may request, and will be provided, an opportunity to consult with the Operator and the Director. The Director or Operator will promptly schedule a Formal Consultation Process meeting. Nothing in this Rule 302.g precludes a Local Government from providing comments on a proposed Oil and Gas Development Plan or Form 2A during the Rule 303.d public comment period. Topics for Formal Consultation Process meeting will include, but not be limited to:

- (1) The location of access roads, Production Facilities, and Wells; and
- (2) Necessary and reasonable measures to avoid, minimize, and mitigate adverse impacts to public health, safety, welfare, the environment, or wildlife resources.

303. PROCEDURAL REQUIREMENTS FOR OIL AND GAS DEVELOPMENT PLANS

- a. **Components of an Oil and Gas Development Plan Application.** Prior to commencing Oil and Gas Operations at an Oil and Gas Location that meets the criteria of Rule 304.a, an Operator will have an approved Oil and Gas Development Plan. An Operator will submit to the Commission the following:

(5) **Cumulative Impacts Data Evaluation Repository.**

- A. **Purpose.** This Rule 303.a.(5) is intended to provide data for the Commission's cumulative impacts data evaluation repository (CIDER). The Commission intends to use the data, in cooperation with CDPHE and other partners, to undertake basin-wide, statewide, and other studies to evaluate and address Cumulative impacts to relevant resources at appropriate scales pursuant to Rules 304.c.(19) or 904.

- B. **Resource Impacts.** The Operator will submit a Form 2B, Cumulative Impacts Data Identification that provides quantitative and qualitative data to evaluate incremental adverse and beneficial contributions to eCumulative impacts caused by Oil and Gas Operations associated with the proposed Oil and Gas Development Plan, including any measures the Operator will take to avoid, minimize, or mitigate any adverse impacts, including Impacts to Climate:

- i. **Air Resources.** A quantitative evaluation of the incremental increase in the pollutants listed below, estimated for the entire proposed Oil and Gas Development Plan. The emissions estimates will include both stationary and mobile sources of emissions during all pre-production activities, and both stationary and mobile sources of emissions for the first year of production based on all proposed wells and equipment.

aa. ~~Oxides of nitrogen~~ (NO_x);

bb. Carbon monoxide (CO);

- cc. Volatile Organic Compounds (VOCs);
- dd. Methane (CH₄);
- ee. Ethane (C₂H₆);
- ff. Carbon dioxide (CO₂); and
- gg. Nitrous oxide (N₂O).

C. Surrounding Oil and Gas Impacts. On the Form 2B, the Operator will identify Oil and Gas Locations in proximity to each of the proposed Oil and Gas Locations associated with the proposed Oil and Gas Development Plan. Specifically, on the Form 2B, the Operator will identify:

- i. The total number of active, permitted, and proposed Oil and Gas Locations within a 1 mile radius of each of the proposed Oil and Gas Locations, including those permitted by the Relevant Local Government, even if a permit application has not yet been submitted to the Commission for the same location.
- ii. The cumulative total ~~of the~~ acreage that is currently disturbed for active Oil and Gas Locations or is and the acreage planned to be disturbed to construct the active and proposed Oil and Gas Locations associated with the Oil and Gas Development Plan within a 1 mile radius of each of the proposed Oil and Gas Locations associated with the Oil and Gas Development Plan, and the source(s) used to calculate the total acreage, which may include:
 - aa. Any relevant field observation or measurements; or
 - bb. The Commission's electronic location files.
- iii. The total number of oil and gas Wells within a 1 mile radius of each of the proposed Oil and Gas Locations that are:
 - aa. Active;
 - bb. Permitted but not drilled;
 - cc. Proposed; and
 - dd. Plugged and Abandoned.
- iv. The total volume of produced hydrocarbon and produced water storage that exists and is proposed at the active and proposed Oil and Gas Locations associated with the Oil and Gas Development Plan within a 1 mile radius of each of the proposed Oil and Gas Locations, and the sources used to calculate the storage volumes.

D. Other Industrial Impacts. On the Form 2B, the Operator will identify existing industrial facilities within a 1 mile radius of each of the proposed Oil and Gas Locations associated with the proposed Oil and Gas Development Plan, including:

- i. A map or aerial photo, if necessary, showing the proposed Oil and Gas Location(s) and the ~~i~~Industrial ~~f~~Facilities; and
- ii. A general description of the use or operation of the ~~i~~Industrial ~~f~~Facilities.

(6) Compliance with NOx and Greenhouse Gas Intensity Targets. Using a Director-approved compliance certification form, an Operator will submit the information required by Rules 904.d & i.

(6)(7) Permitting Coordination Notifications.

- A.** If an Operator is concurrently seeking a permit from the Commission and a federal agency or a Relevant Local Government for one or more locations within the proposed Oil and Gas Development Plan, the Operator may engage the Director in the federal agency or Relevant Local Government process. The Relevant Local Government or federal agency may also request that the Director engage in the Relevant Local Government process or federal agency process. If the Operator, Relevant Local Government, or federal agency requests the Director's engagement, the Operator will:
- i.** Notify the Director that it is concurrently seeking a permit from the Relevant Local Government or federal agency permitting process on the Form 2A at the time the Operator submits the proposed Oil and Gas Development Plan;
 - ii.** Identify any potential conflicts or differences between agency standards for each of the respective permitting authorities on the Form 2A; and
 - iii.** Promptly notify the Director in writing of subsequent milestones and events in the Local Government or federal agency permitting process, including but not limited to:
 - aa.** Submission of documents;
 - bb.** On-site inspections;
 - cc.** Public comment deadlines;
 - dd.** Hearings and public meetings; or
 - ee.** Issuance of final decisions.
- B.** If an Operator has already obtained a permit from a federal agency or a Relevant Local Government for one or more locations within the proposed Oil and Gas Development Plan, the Operator will submit the federal agency's or Relevant Local Government's final decision documents approving the siting and any related surface disturbance as an attachment to the Form 2A for that location.
- i.** If a Relevant Local Government has already approved the siting of one or more Oil and Gas Locations proposed as part of an Oil and Gas Development Plan, and the Director determines that it will recommend that the Commission deny the proposed Oil and Gas Development Plan based on an alternative location analysis process pursuant to Rule 304.b.(2), the Director will notify the Relevant Local Government and the Operator prior to issuing a Recommendation pursuant to Rule 306.
 - ii.** For a proposed Oil and Gas Location on federal surface or mineral estate for which the relevant federal agency has already approved one or more Application(s) for Permit to Drill, the Operator will submit any environmental analysis or analyses conducted for the Application(s) for Permit to Drill pursuant to the National Environmental Policy Act.

~~(7)~~(8) A certification that all components of the Oil and Gas Development Plan have been submitted. The Operator will submit a Form 2C, Oil and Gas Development Plan Certification, to certify the submission of all components of the Oil and Gas Development Plan, and to identify all components of the application.

~~(8)~~(9) If an Operator proposes multiple Oil and Gas Locations, and the Director determines that the number of proposed locations, geographic scope, or high number of adjacent or nearby Oil and Gas Development Plans submitted by the same Operator would be more appropriately considered as a CAP, the Director may request a meeting with the Operator to evaluate whether the proposed Oil and Gas Development Plan(s) should be re-submitted as a CAP application pursuant to Rule 314.

b. **Completeness Determination.** After the Operator certifies pursuant to Rule 303.a.(~~78~~) that all required components of the Oil and Gas Development Plan have been submitted, the Director will use best efforts to review the application materials within 30 days to determine if they are complete.

d. **Public Review and Consultation.**

(1) **Public Comment Period.** When the Director makes a completeness determination by approving a Form 2C, the Oil and Gas Development Plan application components, exemptions granted pursuant to Rule 304.d, and supporting materials will be posted to the Commission's website. The website posting will provide:

A. The date by which public comments must be received to be considered, which is:

i. 60 days from the date the Oil and Gas Development Plan was posted to the Commission website, if the Oil and Gas Development Plan includes any proposed Oil and Gas Locations within, or within 2,000 feet of, a Disproportionately Impacted Community;

~~i.ii.~~ 45 days from the date the Oil and Gas Development Plan was posted to the Commission website if the Oil and Gas Development Plan includes any proposed Oil and Gas Locations within 2,000 feet of a Residential Building Unit, High Occupancy Building Unit, or School Facility ~~within a Disproportionately Impacted Community;~~ and

~~ii.iii.~~ 30 days from the date the Oil and Gas Development Plan was posted for all other Oil and Gas Development Plans ~~;~~ and

B. The mechanism for the public to provide comments.

304. FORM 2A, OIL AND GAS LOCATION ASSESSMENT APPLICATION

b. **Information Requirements.** All Form 2As will include the following information, unless otherwise provided in a Commission Order approving a CAP pursuant to Rule 314.

(7) **Drawings.** Operators will provide the drawings, maps, and figures required below in a suitable size, scale, and electronic format for the Director to conduct a review. If multiple drawings are required to convey the required information, then the Operator will provide them in a logical manner. All drawings, maps, and figures will include a scale bar and north arrow, the Operator's name, the site name, and other information as necessary to identify the attachment as part of the Oil and Gas Development Plan. Aerial imagery used for base maps will be current.

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A. Location Drawings. A scaled drawing and scaled aerial photograph showing the approximate outline of the Oil and Gas Location and Working Pad Surface and all visible improvements within 2,000 feet of the proposed Oil and Gas Location (as measured from the proposed edge of the Working Pad Surface), with a horizontal distance and approximate bearing from the Working Pad Surface. If there are no visible improvements within 2,000 feet of a proposed Oil and Gas Location, the Operator will specify this on the Form 2A. Visible improvements will include, but not be limited to:

- i. All buildings and Building Units, with High Occupancy Building Units identified;
- ii. Publicly maintained roads and trails, including their names;
- iii. Fences;
- iv. Above-ground utility lines;
- v. Railroads;
- vi. Pipelines or Pipeline markers;
- vii. Mines;
- viii. Oil and gas Wells and associated Production Facilities;
- ix. Injection Wells and associated facilities;
- x. Plugged oil and gas Wells, including dry holes;
- xi. Known water wells; ~~and~~
- xii. Known sewers with manholes; and
- xii-xiii. Other Industrial Facilities.

J. Disproportionately Impacted Communities Map. If the proposed Oil and Gas Location is within 2,000 feet of ~~a Residential Building Unit, High Occupancy Building Unit, or School Facility located within~~ a Disproportionately Impacted Community, a map or aerial photo showing the spatial relationship between the proposed Oil and Gas Location and ~~the building(s) identified, and~~ the boundaries of the census block group that meets the 100 Series definition of a Disproportionately Impacted Community. The map will also identify:

- i. The distance and direction to all Residential Building Units, High Occupancy Building Units, and School Facilities within the Disproportionately Impacted Community that are also within 2,000 feet of the proposed Oil and Gas Location;
- i.ii. A table listing the number of Residential Building Units, High Occupancy Building Units, and School Facilities in the Disproportionately Impacted Community that are between 2,000 feet and one mile from the Oil and Gas Location.

c. Plans. All Form 2As will include site-specific plans that demonstrate compliance with the Commission's Rules for the operation of the proposed Oil and Gas Location in a manner that is protective of and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources. Each Form 2A will include the following plans, unless otherwise provided in a Commission Order approving a CAP pursuant to Rule 314.

- (19) **Cumulative Impacts Plan.** A plan documenting how the Operator will address ~~e~~Cumulative ~~i~~Impacts to resources identified pursuant to Rule 303.a.(5) that includes:

- A. A description of all resources to which ~~cumulative~~-adverse Cumulative ~~i~~Impacts are expected to be increased;
- B. A description of specific measures taken to avoid or minimize the extent to which ~~cumulative~~-adverse Cumulative ~~i~~Impacts are increased;
- C. A description of all measures taken to mitigate or offset ~~cumulative~~-adverse Cumulative ~~i~~Impacts to any of the resources; ~~and~~
- D. A description of any anticipated or planned beneficial impacts to resources, including how these beneficial impacts may specifically offset the adverse Cumulative Impact;
- E. A description of adverse Cumulative Impacts identified as originating from other Industrial Facilities within 2,000 feet of the Working Pad Surface, including those that may impact air quality;
- F. A description of how the Operator is meeting the requirements of Rules 904.d & i; and
- D.G. Additional information determined to be reasonable and necessary to the evaluation of Ceumulative ~~i~~Impacts by the Operator, the Director, CDPHE, CPW, or the Relevant Local Government.

- (20) **Community Outreach Plan.** For Oil and Gas Locations proposed within 2,000 feet of a Residential Building Unit, High Occupancy Building Unit, or School Facility located within a Disproportionately Impacted Community, a consultation, outreach, and engagement plan that includes:

- A. A description of any measures taken to directly mitigate adverse impacts to the Disproportionately Impacted Community during pre-production and production phases of operations;
 - B. Certification that written materials have been and will be provided in all languages spoken by 5% or more of the population in the census block group where the proposed Oil and Gas Location is located and those census block groups within 2,000 feet of the proposed Oil and Gas Location; and
 - C. A description of the Operator's plan to facilitate ongoing and transparent communication with residents/tenants residing within 2,000 feet of the Oil and Gas Location and other members of the Disproportionately Impacted Community.
 - ~~C. The proposed date, time, and location of any public meeting(s) that are held at a location in close proximity to the Disproportionately Impacted Community. The Operator will provide child care and interpretation services at such a public meeting upon request.~~
- d. **Lesser Impact Areas.** For any Oil and Gas Location that is not within 2,000 feet of a Residential Building Unit, High Occupancy Building Unit, School Facility, or within a Disproportionately Impacted Community, ~~t~~The Director may exempt an Operator from submitting any of the information required by Rule 304.b, or any plan required by Rule 304.c, under the following circumstances:
- (1) If the Operator requests an exemption from the Director based on evidence showing the information or plan is unnecessary because:

- A. The impacted resource or resource concern are not present in the area; or
 - B. Impacts to the resource will be so minimal as to pose no concern.
- (2) Operators may request an exemption from the Director in writing, without proceeding through the ordinary Rule 502 variance process. A request for an exemption will be provided with the Form 2A at the time the form is submitted.
- (3) The Director may grant an exemption as part of the completeness determination if the Director concurs with the Operator that providing the information or plan is unnecessary to protect and minimize adverse impacts to public health, safety, welfare, the environment, or wildlife resources.
- (4) If the Director grants an exemption, the Commission may nevertheless request the information or plan subject to the exemption, or related information, if the Commission determines that reviewing the information or plan is necessary to protect and minimize adverse impacts.
- e. **Substantially Equivalent Information.**
 - (2) For proposed Oil and Gas Locations on federal surface or mineral estate for which an Operator has submitted environmental analysis pursuant to Rule 303.a.(67).B.ii, the Operator may provide references to equivalent information in the federal environmental analysis in lieu of providing information or plans required by Rules 304.b & 304.c, including the alternative location analysis required by Rule 304.b.(2). Nothing in this Rule 304.e.(2) precludes the Director or Commission from requiring the Operator to submit information or plans otherwise required by Rules 304.b or 304.c because the Director or Commission determines that the federal environmental analysis is not equivalent.

306. DIRECTOR'S RECOMMENDATION ON THE OIL AND GAS DEVELOPMENT PLAN

- c. **Notice of Recommended Decision.** Upon making a Recommendation that the Commission approve or deny an Oil and Gas Development Plan, the Director will post the written basis for the Director's Recommendation on the Commission's website, file its Recommendation with the Hearings Unit, and notify the following persons electronically in a manner determined by the Director:
 - (1) The Surface Owner(s) whose contact information was provided pursuant to Rule 304.b.(12).A;
 - (2) The Operator;
 - (3) The Relevant Local Government(s);
 - (4) All Proximate Local Governments;
 - (5) CDPHE, if consultation occurred subject to Rule 309.f;
 - (6) CPW, if consultation occurred subject to Rule 309.e;
 - (7) Public Water System(s), if consultation occurred pursuant to Rule 309.g;
 - (8) The Colorado State Land Board (if a mineral owner);
 - (9) The appropriate federal agency (if any federal entity is mineral owner); and

(10) Any person or entity that has provided a comment electronically pursuant to Rule 303.d.(1);
and

~~(40)~~(11) Any person or entity that participated in a consultation pursuant to Rule 309.c, and provided
an email address.

309. CONSULTATION

- c. **Building Unit Owners and Tenants.** An Operator will ~~offer be available~~ to meet for a Formal Consultation Process with residents (including owners, agents, and tenants) of Building Units located within 2,000 feet of the proposed Working Pad Surface. ~~Building Unit Owners, their agents, their tenants, or a Relevant or Proximate Local Government may request such a meeting.~~

(1) If any Building Units are within a Disproportionately Impacted Community:

A. The date, time, and location of the meeting will be determined with input from the Community Liaison and will be held within, or in close proximity to the members of, the Disproportionately Impacted Community;

B. The Operator will provide child care, transportation, and interpretation services upon request or as indicated by the Community Liaison; and

C. A virtual meeting option will be allowed if it more reasonably meets the needs of the participants as determined by the Community Liaison.

~~(4)~~(2) **Information Provided by Operator.** When meeting with Building Unit owners or their appointed agent(s) or tenants, the Operator will provide the following information:

A. The Operator's contact information including its electronic mail address, phone number, and physical address(es) to which the public may direct questions and comments;

B. The contact information for the Relevant Local Government;

C. The Commission's website address and main telephone number;

~~A-D.~~ The date construction is anticipated to begin;

~~B-E.~~ The anticipated duration of pad construction, drilling, and completion activities;

~~C-F.~~ The types of equipment anticipated to be present on the proposed Oil and Gas Locations;

~~D-G.~~ The Operator's interim and final Reclamation obligation;

~~E-H.~~ A description and diagram of the proposed Oil and Gas Locations that includes the dimensions of the proposed Oil and Gas Location and the anticipated layout of production or injection facilities, Pipelines, roads, and any other areas to be used for Oil and Gas Operations;

~~F-I.~~ Information relevant to potential health, safety, welfare, and environmental impacts associated with Oil and Gas Operations, including but not limited to security, noise, light, odors, dust, and traffic; and

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- J. Information about proposed Best Management Practices or mitigation measures to avoid, minimize, or mitigate those impacts.
- (3) The meeting will include an opportunity for attendees to provide an email address in order to receive written correspondence from the Operator or Commission regarding the proposed Oil and Gas Location.
- (4) The Operator will submit to the Director a written summary of the meeting, to be included on the Form 2A, detailing:
 - A. The date, time, location, and format of the meeting;
 - B. The number of attendees and description of any accommodations made to facilitate their participation, such as child care, transportation, or translation services;
 - C. Any concerns voiced by the participants and the Operator's response to those concerns;
 - D. Any support voiced by the participants;
 - G-E. Any revisions the Operator intends to make to the Oil and Gas Development Plan application as a result of the meeting.
- (2)(5) **Waiver.** The Building Unit owner, agent, or tenant may waive, permanently or otherwise, their respective right to receive notice pursuant to the Commission's Rules. Any such waiver will be in writing, signed by the owner, agent, or tenant.
- (3)(6) The Operator and the Director will consider all concerns related to public health, safety, welfare, the environment, and wildlife resources raised by Building Unit owners, their agents, or tenants during the Formal Consultation Process, including concerns raised during informational meetings or in written comments. The Operator will provide a written response to all such concerns to the Director as an attachment to the Form 2A prior to the Director making a Recommendation pursuant to Rule 306.
- (4)(7) All information provided pursuant to this Rule 309.c will also be provided in all languages spoken by 5% or more of the population in the census block group(s) within 2,000 feet of each proposed Oil and Gas Location within the Oil and Gas Development Plan.

e. Colorado Parks and Wildlife.

- (2) **When Consultation Must Occur.** The Operator will consult with the Surface Owner (unless the Surface Owner has waived their right to participate pursuant to Rule 309.e.(4).C) and with CPW about a Form 2A, Oil and Gas Development Plan, CAP, or other matter where:
 - D. CPW requests consultation or because consultation is necessary to Avoid, Minimize, or Mitigate reasonably foreseeable direct, indirect, or Cumulative Adverse Impacts to Wildlife Resources from a Form 2A, Oil and Gas Development Plan, CAP, or other matter where consultation is not otherwise required;
 - G. Notwithstanding the foregoing, the requirement to consult with CPW may be waived by CPW at any time. Any waiver will be based on a written finding by CPW that consultation is not necessary to protect Wildlife Resources from quantifiable adverse direct, indirect, or eCumulative impacts from Oil and Gas Operations.
- (5) **Result of Consultation.**

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- A. As a result of consultation required by this Rule 309.e, CPW may make written recommendations to the Director about how to protect Wildlife Resources and conditions of approval that are necessary and reasonable to Avoid, Minimize, or Mitigate direct, indirect, and ~~e~~Cumulative Adverse Impacts to Wildlife Resources from Oil and Gas Operations pursuant to Rules 1202 & 1203.

f. Consultation with CDPHE.

(1) When Consultation Will Occur.

- A. The Director will consult with CDPHE if:

- i. At any time during the Local Government consultation and comment period, a Local Government requests the participation of CDPHE in the Director's consideration of an Oil and Gas Development Plan or CAP based on concerns regarding public health, safety, welfare, or impacts to the environment; ~~or~~
- ~~ii.~~ An Operator requests a variance from the Commission pursuant to Rule 502 from a provision of Rules 303, 304, 314, 408.e, 411, 426, 427, 604, 615, 801, 802, 803.g, 803.h, 806.c, or the Commission's 900 Series Rules as part of an Oil and Gas Development Plan, Form 2A, CAP, or UIC Aquifer exemption application;
- ~~iii.~~ - An Operator proposes an Oil and Gas Location within 2,000 feet of a Residential Building Unit, High Occupancy Building Unit, or School Facility;
- ~~iv.~~ An Operator proposes an Oil and Gas Location within a Disproportionately Impacted Community and one or more Residential Building Units, High Occupancy Building Units, or School Facilities are within 1 mile of the proposed Location; or
- ~~ii.v.~~ An Operator proposes an Oil and Gas Location within the Ozone Nonattainment Area and intends to conduct pre-production operations between May 1 and September 30.

- B. The Director may request consultation about any Oil and Gas Development Plan or CAP if the Director reasonably believes that consultation with the CDPHE would assist the Director in understanding the potential risks to public health, safety, welfare, or the environment.

- C. The Director will consult with CDPHE if CDPHE requests consultation.

- D. Notwithstanding the foregoing, the requirement to consult with CDPHE may be waived by CDPHE at any time.

311. EXPIRATION

- c. **Applications and Refile Forms After Expiration.** ~~If an Oil and Gas Development Plan, Drilling and Spacing Unit, Form 2A, or Form 2 expires prior to an Operator commencing construction or beginning pre-production activities associated with the approved permit, no refile is allowed. The Operator will submit a new Oil and Gas Development Plan, Drilling and Spacing Unit, Form 2A, or Form 2. Oil and Gas Development Plans, Drilling and Spacing Unit applications, Refile Form 2As, and Refile Form 2s may be filed within 60 days prior to expiration or anytime following expiration and are subject to the Commission's Rules in effect at the time of submission.~~

314. COMPREHENSIVE AREA PLANS

a. Purpose of Comprehensive Area Plans.

- (1) The Commission intends for Comprehensive Area Plans (“CAPs”) to facilitate evaluating and addressing ~~C~~umulative ~~i~~mpacts from oil and gas development in a broad geographic area by identifying plans for one or more Operators to develop Oil and Gas Locations within a region while avoiding, minimizing, and mitigating impacts to public health, safety, welfare, the environment, and wildlife resources in the region through systematic planning of infrastructure location, Best Management Practices, and centralizing facilities.
- (3) The Commission encourages Operators to develop CAPs. The Commission may direct the Director to meet with an Operator to discuss whether submission of a CAP is appropriate. The Director may request a meeting with an Operator to discuss whether submission of a CAP is appropriate pursuant to Rule 303.a.(89).

b. Rights Conveyed.

- (3) If the Commission approves a CAP, the Operator ~~will need not~~ separately evaluate ~~C~~umulative ~~i~~mpacts for each individual Oil and Gas Development Plan proposed within the CAP, as ~~would otherwise be~~ required by Rule 303.a.(5).

c. Duration. Approved CAPs will expire 6 years after the date the Commission approves the CAP, unless the Commission issues an Order to approve a different duration or extend the duration pursuant to Rules 314.c.(1) & (2).

(2) Extensions.

- A. The Commission may extend the duration of the CAP if the Operator submits an application pursuant to Rule 503.g.(8), and the Operator demonstrates that:
 - i. It has diligently pursued development of the mineral resources within the CAP; and
 - ii. No significant surface land use changes have occurred within the CAP that would substantially alter the ~~C~~umulative ~~i~~mpacts of the CAP on relevant resources.
- B. The Commission may approve or deny the extension of the CAP following a hearing pursuant to Rule 510. The Commission may extend the CAP by any duration it determines is necessary and reasonable to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
- C. If the Commission approves an extension of the CAP, the Operator may re-apply for another extension, subject to the procedures of this Rule 314.c.(2).

d. Submission Procedure.

- ~~(1)~~ An Operator will request a pre-application consultation with the Director prior to submitting any CAP application. The meeting will include information on the general geographic area to be considered, the scope and timing of operations, existing or new infrastructure such as utility corridors, coordination with local governments, and reduction of adverse Cumulative Impacts. The Director may meet with CDPHE, CPW, federal agencies, local governments, and other relevant stakeholders as part of this consultation.
- ~~(4)(2)~~ One or more Operators (collectively, the “Operator”) may apply for a CAP at any time by submitting the application materials specified in Rule 314.e electronically pursuant to Rule 503.g.(8).

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~~(2)~~(3) The Operator will coordinate with the Director and submit all information necessary for the Director and Commission to fully evaluate the CAP's ~~e~~Cumulative ~~i~~Impacts on public health, safety, welfare, the environment, and wildlife resources.

~~(3)~~(4) At any time after a CAP application is submitted, the Director may request any information necessary to review the CAP application. The Operator will provide all requested information before the Director issues the Director's Recommendation.

~~(4)~~(5) When the Director has obtained all information necessary to fully review the CAP's ~~C~~eumulative ~~i~~Impacts on public health, safety, welfare, the environment, and wildlife resources, the Director will make a completeness determination.

~~(5)~~(6) **Requests to Stay Other Applications.** An Operator may include a request for preliminary relief in its CAP application that the Commission put a hold on taking final action on Oil and Gas Development Plan and Drilling and Spacing Unit applications related to minerals subject to the proposed CAP while the Commission and Director conduct their review of the CAP application.

- A. Such a request will include the mineral ownership information required pursuant to Rule 314.e.(9).
 - B. If the CAP application includes such a request for relief, the Secretary will notice the request for relief for expedited hearing pursuant to Rule 503.a at the time the Director issues the completeness determination.
 - C. Mineral Owners within the proposed CAP may file a petition protesting the requested relief pursuant to Rule 507.
- e. **Informational Requirements for Comprehensive Area Plan.** At a minimum, the Operator will submit the following materials as components of its CAP application:

(3) Maps.

- D. Maps or descriptions of existing and proposed utility lines, including electrical transmission lines and other electric facilities such as substations.
- J. One or more maps identifying areas defined as Disproportionately Impacted Communities and Cumulatively Impacted Communities.

~~(7)~~ **Timing of Operations.** A narrative proposal, explaining the anticipated timing for building infrastructure and developing proposed Oil and Gas Locations.

- A. If operations are proposed within the Ozone Nonattainment Area, a discussion of the anticipated timing of those operations with regard to drilling and preproduction activities occurring between May 1 and September 30.

(10) Evaluating and Addressing Cumulative Impacts. The Operator will provide quantitative and qualitative data to evaluate incremental adverse impacts and beneficial contributions to each resource listed below that are likely to be caused by Oil and Gas Operations associated with the proposed CAP. Data will include a summary of Best Management Practices or other measures the Operator will employ to avoid, minimize, and mitigate impacts to each resource.

A. NOx Intensity Target.

- i. For Oil and Gas Operations planned within the Ozone Nonattainment Area, Operators will provide:
 - aa. A description and demonstration of compliance with its NO_x Intensity Target; and
 - bb. A summary quantifying the anticipated incremental increase in NO_x emissions from its CAP and whether the anticipated incremental increase will result in an exceedance or achievement of the NO_x Intensity Target for each year of the CAP through 2026.
- ii. If an Operator is owned, held, or controlled 50% or more by one or more other Operators, the description and demonstration of compliance set forth in Rule 314.e.(10).A.i.aa will include information describing the parent Operator's company-wide NO_x Intensity Target and a description of the compliance status of the parent Operator and all related or subsidiary Operators subject to the same company-wide NO_x Intensity Target.

B. Greenhouse Gas Intensity Targets.

- i. Operators will provide:
 - aa. A description and demonstration of compliance with the Greenhouse Gas Intensity Targets; and
 - bb. A summary quantifying the anticipated incremental increase in greenhouse gas emissions from its CAP and whether the anticipated incremental increase will result in an exceedance or achievement of the Greenhouse Gas Intensity Target for each year of the CAP through the first year of full production of the CAP.
- ii. If an Operator is owned, held, or controlled 50% or more by one or more other Operators, the description and demonstration of compliance set forth in Rule 314.e.(10).B.i.aa will include information describing the parent Operator's company-wide Greenhouse Gas Intensity Targets and a description of the compliance status of the parent Operator and all related or subsidiary Operators subject to the same company-wide Greenhouse Gas Intensity Targets.

A.C. Air Resources. A quantitative evaluation of the projected incremental increase in emissions of the pollutants listed below, estimated for each year of and five years after the proposed CAP's duration. The emissions estimate will include both stationary and mobile sources of emissions during both pre-production activities and emissions during full production. The evaluation will include any emissions reductions due to the Operator's Plugging and Abandonment of existing oil and gas Wells within the CAP boundaries for the year when the plugging operation occurs.

- i. ~~Oxides of Nitrogen (NO_x);~~
- ii. Carbon monoxide (CO);
- iii. Volatile Organic Compounds (VOCs);
- iv. Methane (CH₄);
- v. Ethane (C₂H₆);

- vi. Carbon dioxide (CO₂); and
- vii. Nitrous oxide (N₂O).

B.D. Public Health and Safety. A quantitative evaluation of incremental increase in emissions of the categories of pollutants listed below, estimated for each year of and five years after the proposed CAP's duration. The emissions estimate will include both stationary and mobile sources of emissions during both pre-production activities and emissions during full production. The evaluation will include any emissions reductions due to the Operator's Plugging and Abandonment of existing oil and gas Wells within the CAP boundaries for the year when the plugging operation occurs. The evaluation will also include a qualitative evaluation of potential public health and safety risks associated with these emissions.

- i. Total hazardous air pollutants;
- ii. Specific hazardous air pollutants with known health impacts, including:
 - aa. Benzene;
 - bb. Toluene;
 - cc. Ethylbenzene;
 - dd. Xylenes;
 - ee. n-Hexane;
 - ff. 2,2,4-Trimethylpentane (2,2,4-TMP);
 - gg. Hydrogen sulfide (H₂S);
 - hh. Formaldehyde; and
 - ii. Methanol.

G.E. Water Resources.

- i. For any CAP that includes a proposed Oil and Gas Location that will be listed as a sensitive area for water resources or is within 2,640 feet of a surface Water of the State, the total planned on-location storage volume of (measured in Barrels (bbls)) of:
 - aa. Oil;
 - bb. Condensate;
 - cc. Produced water; and
 - dd. Other volumes of stored hydrocarbons, Chemicals, or E&P Waste Fluids.
- ii. The Operator will identify and evaluate potential contaminant migration pathways and likely distances from Oil and Gas Locations that may be proposed within the CAP to the nearest downstream riparian corridors, wetlands, and surface Waters of the State. If the Operator identifies any such contaminant migration pathways:

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- aa.** The Operator will provide a qualitative evaluation of the baseline conditions in the riparian corridor, wetland, or surface Water of the State; and
 - bb.** Identify Best Management Practices to avoid, minimize, or mitigate potential adverse impacts to the identified riparian corridors, wetlands, and surface waters of the State.
 - iii.** A qualitative evaluation of potential impacts to, and a summary of Best Management Practices or other measures to avoid, minimize, or mitigate adverse impacts to the following categories of Public Water System intakes and wells within the boundaries of the CAP:
 - aa.** Surface water supply areas as defined in Rule 411.a.(1);
 - bb.** Public Water System supply wells that are groundwater under the direct influence of surface water wells or Type III wells as defined in Rule 411.b.(1); and
 - cc.** Any surface water Public Water System intakes within 15 stream miles downstream of the CAP boundaries.
 - iv.** A qualitative evaluation of the potential for erosion and sedimentation to adversely impact water quality, and a summary of Best Management Practices or other measures to avoid, minimize, or mitigate adverse impacts.
 - v.** The total volume of water the Operator plans to use (measured in bbls), an inventory of the sources from which the Operator intends to obtain the water, and estimated volumes, from each of the following sources:
 - aa.** Freshwater from any Groundwater source;
 - bb.** Freshwater from any lake or stream source;
 - cc.** Freshwater from any domestic water source;
 - dd.** Reclaimed water from a municipal source; and
 - ee.** Recycled or reused E&P Waste.
 - vi.** A qualitative evaluation of the Operator's plan for recycling or disposal of Flowback water and produced water, and the estimated volumes (measured in bbls) of each planned method.

D.F. Terrestrial and Aquatic Wildlife and Ecosystem Resources. A quantitative evaluation of potential impacts to Wildlife Resources as a result of Oil and Gas Operations associated with the proposed CAP, including:

- i. Total acreage of maximum new or expanded surface disturbance associated with the proposed CAP;
- ii. Total acreage disturbed after interim Reclamation associated with the proposed CAP;
- iii. A breakdown (by acreage) of the types of current land use; and

- iv. The number of acres of new or expanded surface disturbance within High Priority Habitat.

E.G. Soil Resources.

- i. A qualitative evaluation of incremental adverse impacts to topsoil as a result of surface disturbance associated with the proposed CAP;
- ii. A qualitative evaluation of incremental adverse impacts on ecosystems, including any vegetative communities, as a result of Oil and Gas Operations associated with the proposed CAP; and
- iii. A quantitative evaluation of any Reclamation activities associated with the Plugging and Abandonment of existing Wells or closure of existing Oil and Gas Locations within the proposed CAP's boundaries.

F.H. Public Welfare. A qualitative or quantitative evaluation of incremental adverse impacts to public welfare as a result of Oil and Gas Operations associated with the proposed CAP, that addresses each of the following potential sources of impacts to public welfare, over both a short-term and long-term timeframe. The evaluation will include any compensatory or other offset beneficial impacts.

- i. Traffic;
- ii. Noise;
- iii. Light;
- iv. Odor;
- v. Dust; and
- vi. Recreation and scenic values.

G.I. Disproportionately Impacted Communities and Cumulatively Impacted Communities. The census block groups of any Disproportionately Impacted Communities and Cumulatively Impacted Communities within the CAP boundaries. For each unique Community, the Operator will provide a narrative about known past, current, and ongoing adverse environmental impacts in the Community, and a summary describing how the Operator intends to Avoid, Minimize, or Mitigate additional Adverse Cumulative Impacts through the CAP's landscape-level planning.

f. Public Review Process.

(1) Notice.

- C. Within 5 days of the Director issuing the completeness determination, the Operator will provide notice to the following:
 - i. All Owners of minerals that would be developed under the CAP;
 - ii. All Surface Owners of the Operator's proposed Oil and Gas Locations;
 - iii. All Local Governments within the CAP's boundaries;

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- ~~iv.~~ iv. All Local Governments within 2,000 feet of the CAP's boundaries;
- ~~v.~~ v. All Residential Building Units within 2,000 feet of the Operator's proposed Oil and Gas Locations;
- ~~iv.vi.~~ iv.vi. All Residential Building Units in a Disproportionately Impacted Community that are also between 2,000 feet and 1 mile of the Operator's proposed Oil and Gas Locations;
- ~~v.vii.~~ v.vii. CDPHE;
- ~~vi.viii.~~ vi.viii. CPW;
- ~~vii.ix.~~ vii.ix. The Colorado State Land Board (if it owns any minerals or surface estate within the CAP);
- ~~viii.x.~~ viii.x. The appropriate federal agency (if any federal entity owns minerals or surface estate within the CAP);
- ~~ix.xi.~~ ix.xi. The Southern Ute Indian Tribe (if the CAP involves any minerals within the exterior boundary of the Tribe's reservation where both the surface and oil and gas estates are owned in fee by persons or entities other than the Tribe);
- ~~x.xii.~~ x.xii. All High Occupancy Building Units, Child Care Centers, and the School Governing Body of any Schools located within the CAP's boundaries; and
- ~~xi.xiii.~~ xi.xiii. All Public Water Systems that operate facilities within the CAP's boundaries.

D. Procedure for Providing Notice. The Operator will provide notice required by Rule 314.f.(1).C by one of the following mechanisms:

- i. Hand delivery, with confirmation of receipt;
- ii. Certified mail, return-receipt requested;
- iii. Electronic mail, with electronic receipt confirmation; or
- iv. By other delivery service with receipt confirmation.

(2) Comments.

- A. The ~~Commission~~Director will only consider comments received within 60 days from the date the CAP is posted on the Commission's website.
- B. The Director will post on the Commission's website all comments received unless they contain confidential information.
- C. Upon request or by the Director's own initiative, the Director may extend the comment period by any duration determined to be reasonable in order to obtain relevant public input.

(3) Public Meeting. An Operator will hold at least 1 informational meeting with all persons or entities entitled to notice pursuant to Rule 314.f.(1).C.

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A. **Timing of Meeting.** The informational meeting will be held during the open public comment period, with sufficient time for the attendees to make comment on the CAP application based on information received. The date, time, and location of the meeting, including whether to provide a virtual meeting option, will be determined with input from the Community Liaison and be held at a location reasonable for most invitees to attend. ~~meeting will be held at a date and time reasonable for most invitees to attend.~~

A.B. **Accommodation.** The Operator will provide child care, transportation, and interpretation services upon request or as indicated by the Community Liaison.

B.C. **Language Access.** All written and oral information provided at a public meeting will also be provided in all languages spoken by 5% or more of the population in any census block groups within or adjacent to the proposed CAP.

C.D. **Content of Meeting.** The Operator will provide at a minimum the following information:

i. The Operator's contact information including its electronic mail address, phone number, and physical address(es) to which the public may direct questions and comments;

ii. An opportunity for attendees to provide an email address in order to receive written correspondence from the Operator or Commission regarding the proposed CAP application;

iii. The Commission's website address and main telephone number, and information about how attendees may make public comments on the CAP application;

i-iv. The schedule of operations;

ii-v. Maps and figures of the CAP area boundary and all Oil and Gas Locations subject to the CAP; and

iii-vi. Anticipated Best Management Practices to be employed during the term of the CAP to minimize adverse environmental impacts on any air, water, soil, or biological resource resulting from Oil and Gas Operations.

E. The Operator will provide to the Director a written summary of the meeting detailing:

i. The date, time, location, and format of the meeting;

ii. The number of attendees and description of any accommodations made to facilitate their participation, such as child care, transportation, or translation services;

iii. Any questions or concerns voiced by the attendees and the Operator's response to those questions and concerns;

iv. Any support voiced by attendees;

v. Any revisions the Operator intends to make to the CAP application as a result of the meeting; and

iv-vi. ~~, attendees, questions and concerns expressed, responses, and~~ anticipated Best Management Practices designed to minimize and mitigate impacts.

- (4) **Consultation.** Consultation about a CAP will allow the consulting entities to provide input about the Cumulative Impacts associated with the CAP, timing of operations, consolidation of infrastructure, and conveying the right of Operatorship in the area of the CAP. Consultation about a CAP is intended to be limited to these topics, and is not a replacement for consultation otherwise required for individual Oil and Gas Development Plans.

B. CPW.

- i. During the public comment period, the Director will engage in a Formal Consultation Process with CPW, unless CPW waives its right to consultation.
- ii. The Formal Consultation Process with CPW may address any relevant topic, but will address the proposed CAP's Cumulative Impacts on Wildlife Resources and measures to avoid, minimize, and mitigate those impacts.

C. CDPHE.

- i. During the public comment period, the Director will engage in a Formal Consultation Process with CDPHE, unless CDPHE waives its right to consultation.
- ii. The Formal Consultation Process with CDPHE may address any relevant topic, but will address the proposed CAP's eCumulative Impacts on public health and the environment, including air quality, water quality, Public Water System supplies, and E&P Waste disposal. The consultation will also address the Operator's current compliance status with the NOx Intensity Target and the Greenhouse Gas Intensity Target, and the Operator's anticipated ability to ensure the CAP and subsequent CAP-related Oil and Gas Development Plans will also comply.

g. Director's Recommendation on the Comprehensive Area Plan.

- (1) **When the Director May Issue a Recommendation.** The Director will not make a Recommendation to the Commission about whether to approve or deny any CAP until after:

- A. The Director has fully reviewed the CAP and all supporting application materials and has obtained all information necessary to evaluate the proposed operations and their potential eCumulative Impacts on public health, safety, welfare, the environment, and wildlife resources.

(2) **Director's Recommendation.**

- A. **Approval.** The Director may Recommend that the Commission approve a CAP that:

- i. Complies with all requirements of the Commission's Rules; and
- ii. Protects and minimizes adverse eCumulative Impacts to public health, safety, welfare, the environment, and wildlife resources.

- (3) **Notice of Director's Recommendation.** Upon issuing the Director's Recommendation, the Director will post the written basis for the Director's Recommendation on the Commission's website, and notify the following persons electronically in a manner determined by the Director:

- A. The Operator;

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- B. All Local Governments within the CAP;
 - C. Local Governments within 2,000 feet of the CAP's boundaries;
 - D. CDPHE;
 - E. CPW;
 - F. The Colorado State Land Board (if it owns any minerals or surface estate within the CAP);
 - G. The appropriate federal agency (if any federal entity owns minerals or surface estate within the CAP); ~~and~~
 - G-H. Any person or entity that participated in a public meeting pursuant to Rule 314.f.(3) and provided an email address; and
 - H-I. Any person or entity that has provided a comment electronically pursuant to Rule 512.
- h. Commission's Consideration of a Comprehensive Area Plan.**
- (3) **Approval.** The Commission may approve a CAP that complies with all requirements of the Commission's Rules and protects and minimizes adverse ~~e~~Cumulative ~~i~~Impacts to public health, safety, welfare, the environment, and wildlife resources.

**ENVIRONMENTAL IMPACT PREVENTION
900 SERIES**

904. EVALUATING CUMULATIVE IMPACTS

d. Demonstration of Compliance with the NOx Intensity Target in Oil and Gas Development Plans.

- (1) With each Oil and Gas Development Plan application for operations in the Ozone Nonattainment Area, an Operator will:**
 - A. Address whether it is meeting its NOx Intensity Target. If an Operator is a subsidiary of, owned, held, or controlled 50% or more by one or more other Operators, the description and demonstration of compliance will include information describing the parent Operator's company-wide NOx Intensity Target and a description of the compliance status of the parent Operator and all related or subsidiary Operators subject to the same company-wide NOx Intensity Target;**
 - B. Describe the projected amount of NOx emissions anticipated from the operations proposed in the Oil and Gas Development Plan; and**
 - C. The proposed operations' anticipated cumulative total NOx intensity.**
- (2) The Oil and Gas Development Plan application must be submitted pursuant to the 300-Series Rules no later than December 31 should the Operator wish to conduct pre-production operations between May 1 and September 30 of the following year. Submission of the Oil and Gas Development Plan by December 31 does not guarantee that the Commission will hear the application before May 1.**
- (3) The Director will consider the status of an Operator's compliance with the NOx Intensity Target in making a recommendation whether to approve or deny the proposed Oil and Gas Development Plan.**
- (4) If the Commission finds that an Operator is in compliance with its NOx Intensity Target, the Commission may authorize pre-production operations in the Ozone Nonattainment Area between May 1 and September 30. If the Commission finds that an Operator is not in compliance with its NOx Intensity Target, or cannot make a reasonable verification of compliance status, it may apply conditions of approval on the Form 2A to limit operations to outside the May 1 through September 30 window, or deny the application.**

e. Permitted Operations Within the Ozone Nonattainment Zone. Beginning in the year 2025, any previously permitted pre-production operations in the Ozone Nonattainment Area proposed to be conducted between May 1 and September 30 must be authorized by the Director.

- (1) Operators will submit a Form 4, Sundry Notice no later than February 15 of the year that they intend to conduct such pre-production operations in the Ozone Nonattainment Area. The Form 4 will include a report detailing:**
 - A. The Operator's current NOx Intensity Target and compliance status;**
 - B. A list of all pre-production operations proposed for the year between May 1 and September 30 and the incremental additive amount of NOx intensity for each operation;**
 - C. A calculation of the cumulative NOx intensity for all current and proposed operations; and**

D. Any other information to demonstrate compliance with the NOx Intensity Target.

(2) The Director may seek consultation with CDPHE in reviewing an Operator's NOx intensity information.

(3) Director's Review of Form 4.

A. If the Director finds that an Operator will remain in compliance with its NOx Intensity Target with the additional proposed pre-production activities, the Director may approve the Form 4 authorizing pre-production operations in the Ozone Nonattainment Area between May 1 and September 30.

B. If the Director finds that the additional proposed pre-production activities will result in an Operator's failure to comply with the NOx Intensity Target, the Director may apply conditions of approval on the Form 4 to limit operations to outside the May 1 through September 30 window, or deny the Form 4. If the Director denies the Form 4, the Operator has the right for a hearing in front of the Commission at an upcoming hearing.

C. If the Director is unable to make a reasonable verification of the Operator's compliance status with NOx Intensity Target, the Operator has the right for a hearing on the Form 4 before the Commission at an upcoming hearing.

f. Change in Approved Operations in the Ozone Nonattainment Area. An Operator may request changes to previously approved pre-production operations in the Ozone Nonattainment Area during the May 1 through September 30 window by submitting a Form 4. Any Form 4 submitted after March 15 will be approved only if the requested change documents a reduction in anticipated NOx emissions due to improved Best Management Practices, a reduction in operations, or a substitution of authorized wells with wells possessing identical NOx profiles.

g. The Director will report to the Commission no later than April 15 annually a summary of approved operations in the Ozone Nonattainment Area for the upcoming ozone season of May 1 through September 30.

h. Best Management Practices for Operations Within the Ozone Nonattainment Area. Operators will comply with Air Quality Control Commission Regulation No. 7, Control of Emissions from Oil and Gas Operations, 5 C.C.R. § 1001-9:B.VI.E.1 (hereinafter "AQCC Regulation No. 7 BMPs"). Only the version of the AQCC Regulation No. 7 BMPs in effect as of April 28, 2024 applies; later versions do not apply. All materials incorporated by reference in this Rule are 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, CO 80203. In addition, the AQCC Regulation No. 7 BMPs Rule is available from the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive, Denver, CO 80246, and is available online at <https://cdphe.colorado.gov/aqcc-regulations>.

i. Demonstration of Compliance with the Greenhouse Gas Intensity Targets in Oil and Gas Development Plans.

(1) With its Oil and Gas Development Plan application, an Operator will demonstrate and describe:

A. Whether it is in compliance with the Greenhouse Gas Intensity Targets. If an Operator is a subsidiary of, owned, held, or controlled 50% or more by one or more other Operators, the description and demonstration of compliance will include information describing the parent Operator's company-wide Greenhouse Gas Intensity Targets and a description

of the compliance status of the parent Operator and all related or subsidiary Operators subject to the same company-wide Greenhouse Gas Intensity Targets:

- B.** The projected amount of greenhouse gas intensity anticipated from the operations proposed in the Oil and Gas Development Plan; and
- C.** The anticipated cumulative total greenhouse gas intensity.
- (2)** The Director will consider whether an Operator demonstrates it is meeting its Greenhouse Gas Intensity Targets in making a recommendation whether to approve or deny the proposed Oil and Gas Development Plan.
- (3)** For all previously permitted pre-production operations, Operators will submit an annual Form 4 to detail compliance with the Greenhouse Gas Intensity Targets. The Form 4 will include a report detailing whether the Operator is in compliance with the Greenhouse Gas Intensity Targets.
- (4)** The Director will report to the Commission annually a summary of the Greenhouse Gas Intensity Targets identified in approved Oil and Gas Development Plans and Form 4s.