

DEFINITIONS 100 SERIES

CASH BOND means United States currency provided to the Commission as Financial Assurance, including certificates of deposit and money market accounts. A Cash Bond may be expended by the Commission if an Operator fails to perform its Plugging and Abandonment, Reclamation, or Remediation obligations. The Operator providing a Cash Bond has no contract or property interest in the Cash Bond other than a contingent reversionary interest in the surplus, if any, which arises after the Director has determined that the Operator has complied with all Plugging and Abandonment, Reclamation, and Remediation obligations pursuant to Rule 706.a, or after a Buying Operator has filed a satisfactory replacement Financial Assurance pursuant to Rule 218.g.(4). A Cash Bond is not intended as cash collateral as defined in 11 U.S.C. § 363(a).

FINANCIAL ASSURANCE means a Surety Bond, Cash Bond, Letter of Credit, sinking fund, Third-Party Trust Fund, escrow account, lien on property, security interest, or other instrument or method accepted by the Commission to ensure an Operator is able to perform its obligations under the Act and the Commission's Rules pursuant to Rule 701.

INACTIVE WELL means:

- a. An oil or gas Well that has been shut-in and has not produced for a period of 12 consecutive months;
- b. An oil or gas Well that has been temporarily abandoned for a period of 6 consecutive months;
- c. A Class II UIC Well which has not been utilized for a period of 12 consecutive months; or
- d. A Suspended Operations Well or a Waiting on Completion Well with no activity other than monthly Bradenhead monitoring for more than 24 consecutive months.
- e. An Inactive Well does not mean:
 - (1) An oil or gas Well that is completed for fewer than 12 months;
 - (2) A Class II UIC Well that is completed for fewer than 12 months;
 - (3) A Well used for the purpose of monitoring or observing an oil or gas reservoir, or a Stratigraphic Well; or
 - (4) An oil or gas Well designated as Out of Service.

A coalbed methane Well that produces only water, resulting in gas production in offset Gas Wells, is considered producing for purposes of this definition.

LETTER OF CREDIT means an irrevocable letter guaranteeing the creditworthiness of an Operator, with the guarantee made by a third-party entity and the Commission as a beneficiary, which provides Financial Assurance that an Operator will comply with all its obligations under the Act and the Commission's Rules. A Letter of Credit may be called and expended by the Commission if an Operator fails to perform its Plugging and Abandonment, Reclamation, and Remediation obligations.

LOW PRODUCING WELL means an oil or gas Well that produces a daily average of less than 2 barrels of oil equivalent ("BOE") or 10 thousand cubic feet of natural gas equivalent ("MCFE") of gas over the previous 12 months. An Inactive Well is also a Low Producing Well. For purposes of this definition, BOE applies to Wells with a gas-to-oil ratio ("GOR") equal to or less than 15,000 standard cubic feet ("SCF")/barrels of oil ("BBL") and MCFE applies to Wells with a GOR greater than 15,000 SCF/BBL. GOR is calculated by dividing the Well's gas production (in thousand cubic feet ("MCF")) over the previous 12 months by the

Well's oil production (in BBL) over the previous 12 months and multiplying by 1,000. Operators will use the conversion factor of 5.8 to convert MCF to BBL and vice versa.

- a. A Low Producing Well does not mean a Class II UIC Well that is not an Inactive Well.
- b. A Low Producing Well does not mean a Well used for the purpose of monitoring or observing an oil or gas reservoir, or a Stratigraphic Well.

OPERATOR means any person who exercises the right to control the conduct of Oil and Gas Operations.

- a. **SELLING OPERATOR** means the Operator of record for any Transferable Items, as defined in Rule 218.a, at the time a Form 9, Transfer of Operatorship – Intent is filed.
- b. **BUYING OPERATOR** means the successor-in-interest entity to which Transferable Items, as defined in Rule 218.a, will be transferred through the Form 9 process.
- c. **PRIOR OPERATOR** means an Operator other than the Selling Operator that was a previous Operator of record for any Transferable Items, as defined in Rule 218.a.

ORPHANED SITE means an Oil and Gas Location or Oil and Gas Facility for which no Operator with unclaimed Financial Assurance or an active Form 1, Registration for Oil and Gas Operations exists, and for which the Commission has not identified a Responsible Party. An Orphaned Site may or may not have Orphaned Well(s) associated with the Oil and Gas Location or Oil and Gas Facility.

ORPHANED WELL means a Well for which no Owner or Operator can be found, or where such Owner or Operator is unwilling or unable to Plug and Abandon such Well.

OUT OF SERVICE WELL means a Well that an Operator intends to Plug and Abandon and for which a Form 6A, Out of Service Well designation has been submitted by the Operator.

PLUGGING AND ABANDONMENT means the permanent plugging of a Well, the removal of its associated Production Facilities, and the abandonment of its Flowline(s).

PLUGGING LIST means the list of an Operator's Out of Service Wells resulting from submitted Form 6As where Plugging and Abandonment are not yet completed for the Well.

RECLAMATION means the process of returning or restoring the surface of disturbed land to its condition prior to the commencement of Oil and Gas Operations.

RELATED OPERATORS means two or more Operators consolidated for purposes of determining Financial Assurance obligations pursuant to Rule 702 and General Liability Insurance obligations pursuant to Rule 705.

REMIEDIATION means the process of reducing the concentration of a contaminant or contaminants in water or soil to the extent necessary to ensure compliance with the concentration levels in Table 915-1 and other applicable Groundwater standards and classifications.

SHUT-IN WELL means a Well which is not currently producing or injecting but is capable of production or injection by opening valves, activating existing equipment, or supplying a power source.

SINGLE WELL FINANCIAL ASSURANCE means either:

- a. The sum of an Operator's demonstrated costs of Plugging and Abandonment of the Well and the associated and apportioned Reclamation cost for the Well, which is calculated by dividing the

demonstrated Reclamation costs by the number of Wells on the Oil and Gas Location or at the Oil and Gas Facility; or

- b. The sum of the Single Well Plugging and Abandonment Cost and the Single Well Location Reclamation Cost.
- c. For purposes of this definition, costs are calculated as follows:
 - (1) **LOCATION RECLAMATION COST** means the Commission's estimated costs of Reclamation at an Oil and Gas Location or an Oil and Gas Facility, which is set at \$100,000 per Location or Facility.
 - (2) **SINGLE WELL LOCATION RECLAMATION COST** means the cost of Reclamation attributable to a single Well on an Oil and Gas Location or at an Oil and Gas Facility, which is calculated by dividing the Location Reclamation Cost by the number of Wells on the Oil and Gas Location or at an Oil and Gas Facility.
 - (3) **SINGLE WELL PLUGGING AND ABANDONMENT COST** means the Commission's estimated costs of Plugging and Abandonment of the Well as follows:
 - A. For a Well drilled to a total vertical depth of 4,000 feet or less: \$10,000 of Financial Assurance.
 - B. For a Well drilled to a total vertical depth of more than 4,000 feet and less than or equal to 8,000 feet: \$30,000 of Financial Assurance.
 - C. For a Well drilled to a total vertical depth of more than 8,000 feet: \$40,000 of Financial Assurance.
- d. Both the Operator's demonstrated costs and Commission's estimated costs are subject to adjustment for inflation pursuant to Rule 707.a.(1).A.

SPUD means the initiation of drilling the surface casing hole of a Well.

SPUD DATE means the date when the Operator starts drilling the surface casing hole of a Well.

SURETY BOND means a surety instrument issued by a Surety Company on behalf of an Operator and in favor of the Commission as obligee, providing Financial Assurance that an Operator will comply with all its obligations under the Act and the Commission's Rules. A Surety Bond may be called by submitting a claim against it with the Surety Company and expended thereafter by the Commission if an Operator fails to perform its Plugging and Abandonment, Reclamation, and Remediation obligations. The Operator providing a Surety Bond has no property interest in the Surety Bond other than a contingent reversionary interest in the surplus, if any, which arises after the Director has determined that the Operator has complied with all Plugging and Abandonment, Reclamation, and Remediation obligations pursuant to Rule 706.a, or after a Buying Operator has filed a satisfactory replacement Financial Assurance pursuant to Rule 218.g.(4).

SURETY COMPANY means a company duly-licensed to write surety business in the State of Colorado and by the Colorado Division of Insurance.

SUSPENDED OPERATIONS WELL means a Well which has been Spud but drilling operations are suspended prior to reaching total depth, and at least one casing string has been set and cemented in the wellbore. Wells in which only conductor pipe has been set but the surface hole has not been Spud are not Suspended Operations Wells.

TEMPORARILY ABANDONED WELL means:

- a. A Well that is neither currently producing nor permanently plugged, but has all downhole completed intervals isolated with a plug set above the highest perforation such that the Well cannot produce without removing a plug; or
- b. A Well which is incapable of production or injection without a downhole intervention or the addition of one or more pieces of wellhead or other equipment, including, but not limited to, valves, tubing, rods, pumps, heater-treaters, separators, dehydrators, compressors, piping, or Tanks.

THIRD-PARTY TRUST FUND means a trust fund created by the Operator with the Commission as the beneficiary, and managed by an entity authorized to act as a trustee whose trust operations are regulated and examined by a federal or state agency. The Operator and the Commission will share approval for disbursements from the trust fund. The trustee will direct the investment of funds in the trust and manage such funds considering the field life as determining the anticipated date funds will be withdrawn for performance of Plugging and Abandonment and Reclamation. The wording of the trust agreement will be identical to the wording approved by the Director, and no changes are allowed without Director approval.

USED OR USEFUL means a Well, or an Oil and Gas Location or Oil and Gas Facility with or without associated Wells that is currently being used or has an identified future beneficial use, which may be indicated by, among other things:

- a. Production trends for the Well;
- b. Plugging and Abandonment, Remediation, and Reclamation costs in relation to the Well's gross revenue generation;
- c. Failure to use or develop a facility;
- d. Remaining economic viability; or
- e. Other relevant evidence.

WAITING ON COMPLETION WELL means a Well which has been drilled to total depth, cased, and cemented but the objective formation has not yet been completed or Stimulated.

WELL means an oil or gas Well, a hole drilled for the purpose of producing oil or gas (including non-hydrocarbon gases such as carbon dioxide and helium), a Class II UIC Well, a Stratigraphic Well, a Gas Storage Well, or a Well used for the purpose of monitoring or observing a reservoir.

**GENERAL PROVISIONS
200 SERIES**

205. OPERATOR REGISTRATION

- a. Form 1, Registration for Oil and Gas Operations.** Prior to the commencement of their operations, all producers, Operators, transporters, gatherers, and initial purchasers who are conducting operations subject to this Act in the State of Colorado, will, for purposes of the Act, file a Form 1, Registration for Oil and Gas Operations with the Director.
- (1) Any producer, Operator, transporter, gatherer, and initial purchaser conducting operations subject to the Act who has not previously filed a Form 1, will do so immediately.
 - (2) Any entity providing Financial Assurance for oil and gas Operators in Colorado will file a Form 1 with the Director.
 - (3) All changes of address of any party required to file a Form 1 will be reported immediately via a new Form 1.
- b. Form 1A, Designation of Agent.**
- (1) All Operators will file a Form 1A, Designation of Agent to designate:
 - A. A Principal Agent, who is an employee of the Operator; and
 - B. One or more agents that the Operator approves to serve as its representative(s).
 - (2) Form 1A designations will remain in effect until terminated in writing via a new Form 1A.
 - (3) All changes to the Form 1A will be reported immediately via a new Form 1A.
- c. Form 1B, Annual Registration.**
- (1) An Operator that has filed a Form 1 and is operating one or more Wells will file a Form 1B, Annual Registration by no later than August 1, 2022. Beginning in 2023, an Operator will file a Form 1B no later than April 30 of each year.
 - (2) With its Form 1B, the Operator will remit its Annual Registration Fee.
 - (3) **Annual Registration Fee.**
 - A. An Operator's Annual Registration Fee will be:
 - i. \$225 per Well for Operators with an average daily per-Well production greater than 15 BOE or 22 MCFE for the previous calendar year; or
 - ii. \$125 per Well for Operators with an average daily per-Well production less than or equal to 15 BOE or 22 MCFE for the previous calendar year.
 - iii. For purposes of this rule, the Operator will use the barrels of oil equivalent ("BOE") or the thousand cubic feet of gas equivalent ("MCFE") threshold depending on the aggregate gas-to-oil ratio ("GOR") of the production from all its Wells over the previous calendar year. The calendar year aggregate GOR is calculated by dividing the Operator's total gas production (in thousand cubic feet ("MCF")) over the previous calendar year by the Operator's total oil production (in barrels of oil

("BBL")) over the previous calendar year and multiplying by 1,000. The BOE threshold applies to Operators with an aggregate GOR equal to or less than 15,000; the MCFE threshold applies to Operators with a GOR greater than 15,000. Operators will use the conversion factor of 5.8 to convert MCF to BBL and vice versa. To calculate the Operator's average daily per-Well production, the Operator will use their total production, in BOE or MCFE, for the previous calendar year and the number of their existing Wells as of December 31 of the previous calendar year.

- B. The Operator will pay the fee for every Well it operates as of December 31 of the previous calendar year. After a Well is Spud, the Operator will pay an annual fee for the Well until it is properly Plugged and Abandoned, subject to an approved Form 6, Well Abandonment Report – Subsequent Report of Abandonment.
 - C. The Operator need not pay a fee for Wells subject to an approved Form 2, Application for Permit to Drill that have not yet been Spud.
 - D. The Annual Registration Fee will be subject to update on a periodic but no more frequent than biennial basis, with any changes taking effect the following year. The Annual Well Registration Fee will be modified only through the Commission's rulemaking process described in Rule 529.
- (4) Information Requirements for Form 1B.**
- A. On the Form 1B, the Operator will list all Wells that it operated as of December 31 of the previous calendar year, and the status of each Well on that date.
 - B. Operators will provide notice of any renewals or changes to their general liability insurance during the previous 12 months on their Form 1B and attach the certificate of insurance.
- (5)** The Director will expend the annual registration fees only to address Orphaned Wells and Sites.
- (6)** No later than September 1, 2022, and on or before September 1 each year thereafter, the Director will report the following information to the Commission:
- A. The progress on plugging, Remediation, and Reclamation of Orphaned Wells and Sites as of the end of the previous Fiscal Year on June 30;
 - B. The total number of Orphaned Wells and Sites that are not plugged or closed;
 - C. Total funding received during the previous Fiscal Year; and
 - D. Total amount spent during the previous Fiscal Year.

211. PLUGGING AND ABANDONMENT OF WELLS AND CLOSURE OF OIL AND GAS FACILITIES AND LOCATIONS

- a. An Operator of a Well will Plug and Abandon the Well, Remediate any contamination pursuant to the Commission's 900 Series Rules, and Reclaim the Well Site pursuant to the Commission's 1000 Series Rules if the Commission, following a hearing pursuant to Rule 503.g.(12), determines that Plugging and Abandoning is reasonable and necessary to protect or minimize adverse impacts to public health, safety, welfare, the environment, or wildlife resources, or that the Well is no longer Used or Useful.

- b. An Operator of an Oil and Gas Location will permanently close an Oil and Gas Location or Oil and Gas Facility, properly Plug and Abandon all Wells at the Oil and Gas Location pursuant to Rules 434 & 435, Remediate any contamination pursuant to the Commission's 900 Series Rules, and Reclaim the Oil and Gas Location pursuant to the Commission's 1000 Series Rules, if the Commission, following a hearing pursuant to Rule 503.g.(12), determines that such closure is necessary to protect and minimize adverse impacts to public health, safety, welfare, the environment, or wildlife resources, or when the Oil and Gas Location or Oil and Gas Facility is no longer Used or Useful.

217. FORM 8, OIL AND GAS CONSERVATION LEVY

- a. On or before March 1, June 1, September 1, and December 1 of each year, every producer or purchaser, whichever disburses funds directly to each and every person owning a working interest, a royalty interest, an overriding royalty interest, a production payment, and other similar interests from the sale of oil or natural gas subject to the charge imposed by § 34-60-122(1)(a), C.R.S., will file a Form 8, Oil and Gas Conservation Levy with the Director and remit the levy payment. The Form 8 will show, by Operator, the volume of oil, gas, or condensate produced or purchased during the preceding calendar quarter, including the total consideration due or received at the point of delivery. No Form 8 will be required when the charge imposed is zero mill (\$0.0000) per dollar value. The levy will be an amount fixed by order of the Commission.
- b. The levy amount may, from time to time, be reduced or increased to meet the expenses chargeable against the Oil and Gas Conservation and Environmental Response Fund. The present charge imposed, as of October 1, 2020, is \$0.0015 per dollar value.

218. FORM 9, TRANSFER OF OPERATORSHIP

a. Definitions.

(1) For the purposes of this Rule 218, "Transferable Items" include but are not limited to:

- A. Approved, unexpired Form 2, Application for Permit to Drill; Form 2A; Form 15, Earthen Pit Report/Permit; and Form 28, Centralized E&P Waste Management Facility Permit (collectively "Permits");
- B. Wells;
- C. Oil and Gas Locations;
- D. Oil and Gas Facilities;
- E. Off-Location Flowlines;
- F. Open Remediation projects;
- G. Unresolved Spills and Releases;
- H. Unresolved Field Inspection Reports with outstanding corrective actions;
- I. Unresolved warning letters;
- J. Unresolved Notices of Alleged Violation; and

- K. Any item listed in Rule 218.a.(1).A–J that is related in the Commission’s records to another Transferable Item proposed for transfer.
- b. **Form 9, Transfer of Operatorship – Intent.** A Selling Operator will notify the Commission about the transfer of any Transferable Item associated with its Oil and Gas Operations to a Buying Operator by filing a Form 9, Transfer of Operatorship – Intent, with the Commission at least 30 days, or as soon as practicable, before the anticipated transfer date. The Form 9 – Intent will include the Selling Operator’s understanding of the following information at the time the Selling Operator submits the Form 9 – Intent to the Commission, which may change prior to the closing date of the transaction:
- (1) The name of the Buying Operator;
 - (2) The anticipated date for the transfer of all Transferable Items;
 - (3) The complete anticipated list of Transferable Items that are proposed for transfer.
 - A. The list will identify Low Producing Wells, Inactive Wells, and Out of Service Wells proposed for transfer.
 - B. For each Low Producing and Inactive Well proposed for transfer, the Selling Operator will provide the following information about the Oil and Gas Location where the Low Producing or Inactive Well is located:
 - i. Area of initial total disturbance for the Oil and Gas Location;
 - ii. Number of Wells at the Oil and Gas Location, including how many are proposed for transfer and how many are Low Producing or Inactive Wells;
 - iii. Whether the Oil and Gas Location has cut-and-fill slopes, and, if yes, the slope ratios (e.g., 4:1) of both the cut slope and the fill slope;
 - iv. Whether the Oil and Gas Location has sandy soils;
 - v. Whether any salt kills have occurred at the Oil and Gas Location;
 - vi. Whether the Oil and Gas Location is within 2,000 feet of a School Facility, Child Care Center, High Occupancy Building Unit, or Residential Building Unit within a Disproportionately Impacted Community;
 - vii. Whether the Oil and Gas Location is within High Priority Habitat; and
 - viii. Whether topsoil has been salvaged at the Oil and Gas Location.
 - C. For each Out of Service Well proposed for transfer, the Selling Operator will identify the date by which each Well will be plugged. The transfer of an Out of Service Well will place the Well on a Plugging List for the Buying Operator but will not change the deadline for plugging such Well unless the Buying Operator files a Revised Form 6A pursuant to Rule 434.d.(9).A.
 - (4) The complete list of any Transferable Items that are related in the Commission's records to a Transferable Item listed pursuant to Rule 218.b.(3) but are not proposed for transfer;

- (5) The estimated amount of Financial Assurance required by the Commission's Rules that the Buying Operator will submit to the Commission prior to the anticipated date of transfer identified in Rule 218.b.(2), including:
- A. Single Well Financial Assurance for each Low Producing Well subject to a transfer listed on a Form 9 – Intent dated after April 30, 2022, unless:
 - i. The Wells have been designated as Out of Service; or
 - ii. The Buying Operator has submitted a Financial Assurance Plan that accounts for the transfer of the Low Producing Wells, and based on that Plan, Single Well Financial Assurance for the Low Producing Well would not be required.
 - iii. If the Buying Operator has submitted a Financial Assurance Plan pursuant to Rules 702.d.(3) or (4), any Single Well Financial Assurance for Low Producing Wells required by this Rule 218.b.(5).A will not change the Operator's timeline to contribute Financial Assurance each year as required pursuant to the Operator's approved Financial Assurance Plan.
 - aa. If the Selling Operator has an approved Financial Assurance Plan pursuant to Rules 702.d.(3) or (4), the Buying Operator will assume the Selling Operator's timeline for providing Single Well Financial Assurance under the Selling Operator's existing Financial Assurance Plan. Pursuant to Rule 218.e, the Buying Operator will contribute its Financial Assurance in an amount equal to or greater than the Single Well Financial Assurance that the Selling Operator had contributed for the transferred Wells prior to transfer.
 - bb. If the Selling Operator has an approved Financial Assurance Plan pursuant to Rules 702.d.(1), (2), (5), or (6), the Buying Operator will incorporate the transferred Wells into its approved Single Well Financial Assurance timeline pursuant to the Buying Operator's approved, pre-transfer Financial Assurance Plan.
 - B. The amount of Financial Assurance required by Rules 702, 703, & 704 for all Transferable Items other than Low Producing Wells; and
 - C. The type(s) of Financial Assurance the Buying Operator intends to provide pursuant to Rule 701.
 - D. The Director, Selling Operator, or Buying Operator may request the Commission determine a different amount of Financial Assurance by requesting a Financial Assurance hearing pursuant to Rule 503.g.(11).
- (6) The estimated impact of the transfer on the Selling Operator's Financial Assurance Plan.
- (7) **Attached Attestations.** An attestation signed by the Selling Operator and the Buying Operator attesting to all contents of the Form 9 – Intent.
- (8) If the proposed transfer is subject to a non-disclosure or confidentiality agreement between the Selling Operator and the Buying Operator, the Selling Operator will indicate on the Form 9 – Intent that the proposed transfer is considered confidential, and the Director will keep the Form 9 – Intent and any other associated information confidential pursuant to § 24-72-204(3)(a)(IV), C.R.S., until the Form 9, Transfer of Operatorship – Subsequent is filed.

- c. The Selling Operator will remit with the Form 9 – Intent the filing fee provided in Appendix III.
- d. **Revised Financial Assurance Plans.** Prior to the proposed anticipated date of transfer identified on the Form 9 – Intent, the Buying Operator and Selling Operator will each file a revised Financial Assurance Plan pursuant to Rule 702.b.(3) that takes into account the anticipated transaction.
- e. **Financial Assurance Submission.** Consistent with the Buying Operator's revised Financial Assurance Plan filed pursuant to Rule 218.d, the Buying Operator will submit the estimated amount of Financial Assurance required as a result of the transfer to the Commission prior to the date of transfer.
- f. **Form 9, Transfer of Operatorship – Subsequent.**
 - (1) When a transaction subject to a Form 9 – Intent becomes final, the Buying Operator will submit a Form 9 – Subsequent within 7 days of closing. The Form 9 – Subsequent will include:
 - A. The effective date of transfer;
 - B. The complete list of Transferable Items that:
 - i. Were transferred to the Buying Operator;
 - ii. Are related in the Commission's records to a Transferable Item listed pursuant to Rule 218.f.(1).B.i but were not transferred, and:
 - aa. Whether the Selling Operator retained responsibility for compliance with the Commission's Rules for any Transferable Item listed pursuant to Rule 218.f.(1).B.ii; or
 - bb. Whether a Prior Operator retained responsibility for compliance with the Commission's Rules for any Transferable Item listed pursuant to Rule 218.f.(1).B.ii; and
 - iii. Were listed on the Form 9 – Intent pursuant to Rules 218.b.(3) & (4) but were not transferred to the Buying Operator upon closing, and:
 - aa. Whether the Selling Operator retained responsibility for compliance with the Commission's Rules for any Transferable Item listed pursuant to Rule 218.f.(1).B.iii; or
 - bb. Whether a Prior Operator retained responsibility for compliance with the Commission's Rules for any Transferable Item listed pursuant to Rule 218.f.(1).B.iii.
 - C. **Attached Attestations.**
 - i. An attestation signed by the Selling Operator and the Buying Operator attesting to all contents of the Form 9 – Subsequent;
 - ii. If applicable, an attestation signed by the Selling Operator attesting that the Selling Operator retains responsibility for compliance with the Commission's Rules for any Transferable Item listed in Rules 218.f.(1).B.ii.aa or 218.f.(1).B.iii.aa; and

- iii. An attestation signed by the Buying Operator that the Buying Operator notified the Relevant Local Government in which any Transferable Item is located of the completed transaction in writing.

D. Subsequent Liability.

- i. For Transferable Items listed in Rule 218.f.(1).B.i an acknowledgment that upon the effective date of transfer, the Buying Operator assumes all responsibility for compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders for the Transferable Items;
 - ii. For Transferable Items listed in Rules 218.f.(1).B.ii or iii, an acknowledgment that the Buying Operator may be or may become responsible for compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders if the Buying Operator takes any action, or fails to take any action, that would cause such Transferable Item to be out of compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders; and
 - iii. For Transferable Items not listed in Rules 218.f.(1).B.i–iii but related in the Commission's records, an acknowledgment that the Commission will presume that the Transferable Item was transferred, and that the Buying Operator is responsible for compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders for the Transferable Items.
- (2) If an anticipated transaction that is the subject of a Form 9 – Intent does not occur, the Selling Operator will notify the Director in writing. The Director will withdraw the Form 9 – Intent.
- g. The Director will review the Form 9 – Intent and Form 9 – Subsequent upon receipt. The Director will approve the Form 9 – Intent and Form 9 – Subsequent within 45 business days of when all of the following have occurred:
- (1) The Director has determined that all Permits described in Rule 218.f.(1).B.i subject to the proposed transfer comply with the Commission's current Rules in effect at the time of the proposed transfer;
 - (2) If a Permit described in Rule 218.f.(1).B.i is not in compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders on the date of transfer, the Director has determined that the Selling Operator, Buying Operator, or Prior Operator has submitted a satisfactory plan to bring such Permit into compliance;
 - (3) The Director has determined that the Form 9 – Intent and Form 9 – Subsequent are complete and comply with this Rule 218; and
 - (4) The Buying Operator has submitted the Financial Assurance required by the Commission's Rules. If a Commission hearing is required because the Buying Operator requests a Financial Assurance hearing pursuant to Rule 218.b.(5).D, then Director will not approve the Form 9 – Intent and Form 9 – Subsequent until the Commission has held the Financial Assurance hearing pursuant to Rule 510.
- h. The Director may deny the Form 9 – Intent and Form 9 – Subsequent and the Selling Operator will remain responsible for compliance with the Commission's Rules for the proposed Transferable Items:

- (1) If the Form 9 – Intent or Form 9 – Subsequent fail to satisfy Rules 218.b or 218.f;
- (2) If the Selling Operator did not remit the filing fee required by Rule 218.c;
- (3) If the Buying Operator fails to submit the amount or type of Financial Assurance required by the Commission’s Rules or required by a Commission order approved during a Financial Assurance hearing; or
- (4) If the Buying Operator does not submit a Form 9 – Subsequent within 120 days following the anticipated date for transfer identified in Rule 218.b.(1).

i. Addressing an Operator’s Failure to Comply with Transfer Requirements.

- (1) If a Buying Operator operates a Well or Wells for 60 days or more without obtaining the Director’s approval of a Form 9 – Intent and Form 9 – Subsequent, the Director may require all such Wells to be shut-in, consistent with the Well shut-in safety requirements of Rule 434. All such Wells will remain shut-in until the Director approves a Form 9 – Intent and Form 9 – Subsequent. An Operator that objects to a shut-in order may request an expedited hearing before the Commission pursuant to the expedited appeal procedures described in Rule 209.b.
 - (2) If the Buying Operator fails to file a satisfactory replacement Financial Assurance pursuant to Rule 218.g.(4) and the Selling Operator is unable to maintain adequate Financial Assurance to comply with all its obligations under the Act and Commission’s Rules, the Director may file an application pursuant to Rule 503.g.(11). The Director may request an expedited hearing in the application and the Secretary will notice the hearing pursuant to Rule 503.a at the time the Director files the application.
- j. The Director will not approve a Form 10, Certificate of Clearance submitted by the Buying Operator for a transferred Well unless there is an approved Form 9 – Intent and an approved Form 9 – Subsequent.
- k. A Form 9 is not required for the change of Operator of gas gathering systems, gas processing plants, and underground gas storage facilities, which are governed by Rule 220.c.

223. CONFIDENTIAL INFORMATION

b. Confidential information may include:

- (10) Personal medical information submitted on a Form 22, Accident Report;
- (11) Non-public and confidential financial information submitted as part of a Financial Assurance Plan pursuant to Rule 702 or a demonstration of costs for Single Well Financial Assurance; and
- (12) Other information that the Operator designates as confidential if the Director concurs that the information meets the confidentiality provisions of the Colorado Open Records Act.

**PERMITTING PROCESS
300 SERIES**

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.

(2) Alternative Location Analysis.

- B. Alternative Location Analysis Criteria.** An Operator will perform an alternative location analysis if:

- ix.** The Operator is using or intends to use a Surface Owner protection bond pursuant to Rule 704 to access the proposed Oil and Gas Location; or

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

- a. When the Director May Issue a Recommendation.** The Director will not make a Recommendation to the Commission about whether to approve or deny any Oil and Gas Development Plan until:

- (5)** The Director determines that the Operator has provided adequate Financial Assurance as required by the Commission's 700 Series Rules for both the proposed Oil and Gas Development Plan and all existing facilities owned by the Operator, and that the Operator is in compliance with the Annual Well Registration and fee requirements for the current year pursuant to Rule 205.c.

**OPERATIONS AND REPORTING
400 SERIES**

413. FORM 7, OPERATOR'S MONTHLY REPORT OF OPERATIONS

- a. Operators will report all existing oil and gas Wells that are not Plugged and Abandoned on the Form 7, Operator's Monthly Report of Operations within 45 days after the end of each month.
 - (1) Operators will report a Well every month from the month that it is Spud until it has been Plugged and Abandoned and reported for one month as abandoned. In addition to their Producing and Injecting and Plugged and Abandoned Wells, Operators will identify and list all Drilling, Shut-In Wells, Suspended Operations, Temporarily Abandoned Wells, and Waiting On Completion Wells on their Form 7 reports.
 - (2) Operators will report each formation that is completed in a Well every month from the time that it is completed until it has been abandoned and reported for one month as abandoned.
- b. Operators will report the volume of produced Fluids and any gas or Fluids used during enhanced recovery unit operations injected into a Class II UIC Well on a Form 7 within 45 days after the end of each month. The reported volumes will include all Fluids produced during Flowback, initial testing, Completion, and production of the Well. Produced Fluids include, but are not limited to, produced water and Fluids recovered during drilling, casing cementing, pressure testing, Completion, workover, and formation Stimulation of all Wells including production, exploration, injection, service and monitoring Wells.
- c. Operators will report the volume of any non-produced Class II Fluids not listed in Rule 413.b injected into a Class II UIC Well on a Form 14, Monthly Report of Non-Produced Water Injected pursuant to Rule 808.b.

434. ABANDONMENT

b. Temporary Abandonment.

- (1) If an Operator Temporarily Abandons a Well, the Operator will file a Form 4 within 30 days reporting and describing such activity, including the method used to ensure that the Well is closed to the atmosphere and the Operator's plans for future operation of the Well.
- (2) A Well may be Temporarily Abandoned for a period not to exceed 6 months, if:
 - A. It has passed a successful mechanical integrity test pursuant to Rule 417.c, and the Director has approved the applicable Form 21;
 - B. The Operator cases or leaves the hole so as to prevent migration of oil, gas, water, or other substance from the formation or horizon in which it originally occurred;
 - C. The Operator closes the Well to the atmosphere with a swedge and valve or packer, or other approved method, and maintains it in that condition;
 - D. The Well sign remains in place; and
 - E. The Operator properly reports the Well as Temporarily Abandoned on the Form 7.
- (3) A Well may be Temporarily Abandoned for a period that exceeds 6 months if:
 - A. The Operator complies with all requirements of Rule 434.b.(2);

- B. The Operator submits a Form 4 requesting the extension of time, stating the reason for the request, and explaining plans for future operation;
- C. The Operator complies with all requirements of Rule 434.c.(1).B;
- D. The Operator performs all subsequent mechanical integrity tests required at the frequency specified in Rule 417.c.(2).

c. Plugging Inactive Wells.

(1) Within 6 months of a Well becoming Inactive, the Operator will Plug and Abandon the Well, unless the Operator:

- A. Brings the Well back to production so that it is no longer an Inactive Well;
- B. Files a Form 5B, Inactive Well Notice and provides Single Well Financial Assurance via a Form 3A, Financial Assurance, if required by the Operator's Financial Assurance Plan's requirements related to Low Producing Wells; or
- C. Files a Form 6A, Out of Service Designation, to designate the Well as Out of Service pursuant to Rule 434.d.

(2) Form 5B, Inactive Well Notice. An Operator will submit to the Director a completed Form 5B for every Inactive Well.

A. Information Requirements. Operators will provide the following information on a Form 5B:

- i. The reason why the Well for which the Form 5B is provided is Inactive; and
- ii. The Financial Assurance Option and most recent Commission Order or Director Decision approving the Operator's Financial Assurance Plan.

B. Director Designation. The Director will designate any Well as Inactive if the Director has reasonable cause to believe that such Well is Inactive based on a review of an Operator's Form 7, Operator's Monthly Report of Operations. If an Operator disagrees with the Director's determination, it may appeal to the Commission pursuant to 503.g.(10). The matter will not be assigned to an Administrative Law Judge pursuant to Rule 503.h. The Commission will hear the appeal at its next regularly scheduled meeting.

C. Form 5C, Inactive Exception Request. An Operator may file a Form 5C to request from the Director an exception from the designation of a Well as Inactive for good cause. The Director will not approve a Form 5C unless the Operator demonstrates in sufficient detail that the Well for which a Form 5B would be provided is not properly designated as Inactive.

d. Out of Service Designation and Plugging List. An Operator will designate a Well as Out of Service on a Form 6A, Out of Service Designation, and the Out of Service Well is then placed on the Operator's Plugging List.

(1) An Operator may submit a Form 6A by December 31, 2023, or with a revised Financial Assurance Plan pursuant to Rule 702.b.(2). The designation of a Well is changed to Out of Service and the Out of Service Well is placed on an Operator's Plugging List effective the date of submission of the Form 6A.

- (2) **Wells.** An Operator may submit a Form 6A:
- A. For an oil or gas Well, after permanently ceasing hydrocarbon production;
 - B. For a Class II UIC Well, after permanently ceasing injection; or
 - C. For a Suspended Operations Well, a Waiting on Completion Well, a Well used for monitoring or observation, or a Stratigraphic Well, after the Well has been Shut-In or Temporarily Abandoned.
- (3) **Information Requirements for a Form 6A.** Operators will provide the following information on a Form 6A:
- A. The API number, name, and number of each Well the Operator proposes to add to its Plugging List and the date each Well ceased production or utilization;
 - B. Whether each Well is located within 2,000 feet of a School Facility, Child Care Center, High Occupancy Building Unit, or Residential Building Unit within a Disproportionately Impacted Community;
 - C. Whether each Well is located within wildlife habitat identified by Rule 1202.c;
 - D. The number of Wells the Operator has Plugged and Abandoned during the previous 12 months;
 - E. Evidence that the Operator is financially capable of meeting the timelines required by Rule 434.d.(4) for its Plugging List; and
 - F. Whether the Operator has detected a leak that was included on the Operator's delayed repair list in accordance with Colorado Department of Public Health and Environment, Air Quality Control Commission ("AQCC") Regulation No. 7, Control of Ozone Via Ozone Precursors and Control of Hydrocarbons Via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides), 5 C.C.R. §§ 1001-9:D.II.E.8 & 9 (2022) (hereinafter "AQCC Regulation 7 Delayed Repair List Recordkeeping and Reporting Rules"). Only the version of the AQCC Regulation 7 Delayed Repair List Recordkeeping and Reporting Rules in effect as of April 30, 2022 applies; later amendments 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 7 Delayed Repair List Recordkeeping and Reporting Rules are available from the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, CO 80246, and is available online at <https://www.colorado.gov/pacific/cdphe/aqcc-regs>.
- (4) **Plugging and Abandonment of Out of Service Wells.** An Operator will Plug and Abandon, commence Reclamation pursuant to Rule 1004, and, as applicable, commence site investigation, Remediation, and closure pursuant to Rules 913, 914, and 915 on each Out of Service Well on its Plugging List within the timeframes outlined below.
- A. **Reducing Impacts to Disproportionately Impacted Communities.** Operators will prioritize the Plugging and Abandonment of all Out of Service Wells identified pursuant to Rule 434.d.(3).B.
 - B. If an Operator submits a Form 6A on or before December 31, 2023, the Operator will Plug and Abandon all designated Wells within the following timeframe:

- i. For a Form 6A that contains 1–10 Wells, no later than December 31, 2027;
 - ii. For a Form 6A that contains 11–50 Wells, no later than December 31, 2028;
 - iii. For a Form 6A that contains 51–250 Wells, no later than December 31, 2029; and
 - iv. For a Form 6A that contains 251 or more Wells, no later than December 31, 2030.
 - C. If an Operator submits a Form 6A after December 31, 2023, the Operator will Plug and Abandon all designated Wells within four years from the Form 6A submittal date.
- (5) **Exception for Depressurization.** Plugging and Abandonment of an Out of Service Well may require depressurization of the Well immediately prior to the permanent plugging of such Well. This depressurization, even if it results in gas production through sales equipment, is not considered hydrocarbon production for purposes of this Rule 434.d.
- (6) **Removal from Plugging List.** A Well is removed from an Operator's Plugging List:
 - i. If an Out of Service Well is transferred to a Buying Operator's Plugging List or repurposed for beneficial use pursuant to Rule 434.d.(9); or
 - ii. Following the Director's approval of the Well's Form 6, Well Abandonment Report – Subsequent Report of Abandonment pursuant to Rule 435.b.(2). The removal of a Well from an Operator's Plugging List does not relieve an Operator of its obligations pursuant to Rules 913, 914, 915, and 1004 for such Well.
- (7) **Form 6B, Annual Out of Service Wells Report.** An Operator will file a Form 6B, Annual Out of Service Wells Report, for the previous calendar year not later than March 31 of each year.
 - A. The Form 6B will document the progress of each of the following operations as of December 31 of the previous calendar year, as applicable, for each Out of Service Well on the Operator's Plugging List:
 - i. Plugging and Abandonment;
 - ii. Physical termination of electric service to associated Production Facilities;
 - iii. Purging of all piping, tanks, vessels, and other surface equipment; and
 - iv. Application of OOSLAT consistent with the 1100 Series.
 - B. The Form 6B will identify which Out of Service Wells have not been Plugged and Abandoned and are located within 2,000 feet of a School Facility, Child Care Center, High Occupancy Building Unit, or Residential Building Unit within a Disproportionately Impacted Community.
 - C. The Form 6B will identify which Out of Service Wells have not been Plugged and Abandoned and are located within wildlife habitat identified by Rule 1202.c.
 - D. The Form 6B will describe the Operator's compliance with the timelines in Rule 434.d.(4).
 - E. The Form 6B will identify whether the Operator has detected a leak that was included on the Operator's delayed repair list in accordance with AQCC Regulation 7 Delayed

Repair List Recordkeeping and Reporting Rules, 5 C.C.R. §§ 1001-9:D.II.E.8 & 9, as incorporated by reference in Rule 434.d.(3).F.

- (8) Director's Review of Plugging List and Form 6B.** At any time, the Director may review an Operator's Plugging List or its most recent Form 6B to determine whether the Operator is financially and operationally capable of timely Plugging and Abandoning the Wells on its Plugging List within the timelines in Rule 434.d.(4).
- A.** The Director may request additional information from an Operator to demonstrate that it is financially and operationally capable of timely Plugging and Abandoning the Wells on its Plugging List. Such information may include the number and percentage of its Wells the Operator Plugged and Abandoned during the previous calendar years and its access to equipment, human, and capital resources necessary to timely Plug and Abandon its Out of Service Wells.
 - B.** If, following a review of an Operator's Plugging List or most recent Form 6B, the Director has reasonable cause to believe that the Operator lacks the financial and operational ability to timely Plug and Abandon the Wells on its Plugging List or is not making substantial progress towards its obligations as demonstrated by progress reporting required by Rule 434.d.(7).A, and other information provided, the Director may:
 - i.** Request additional Financial Assurance for some or all of the Out of Service Wells on the Operator's Plugging List; or
 - ii.** File an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) and request that the Commission order that the Operator provide Single Well Financial Assurance for each Well on its Plugging List.
 - C.** If the Operator disagrees with the Director's request under Rule 434.d.(8).B.i, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).
- (9) Transferring an Out of Service Well or Repurposing an Out of Service Well for Beneficial Use.**
- A.** If a Selling Operator transfers an Out of Service Well, the Buying Operator assumes the obligations for the Well under this Rule 434.d, and must Plug and Abandon the Well or repurpose the Well for a beneficial use other than hydrocarbon production based on the Selling Operator's timeline pursuant to Rule 434.d.(4) unless the Buying Operator files, and the Director approves, a Revised Form 6A with an alternative timeline for the Buying Operator.
 - B.** An Operator may repurpose an Out of Service Well on its Plugging List for a beneficial use other than hydrocarbon production, subject to the Director's written approval of a Revised Form 6A.
- (10) Financial Assurance.** If an Operator does not Plug and Abandon an Out of Service Well within the timelines in Rule 434.d.(4), the Operator will immediately provide Single Well Financial Assurance for the Well.
- (11) Wellbore Integrity for Out of Service Wells.**
- A.** An Operator will continue to conduct Bradenhead monitoring and testing pursuant to Rules 419 & 420 on an Out of Service Well until the Operator Plugs and Abandons such Well. An Operator is not required to conduct mechanical integrity testing on an Out of Service

Well pursuant to Rule 417 but is subject to the mechanical integrity testing requirements set forth in this Rule 434.d.(11).

- B.** If an Out of Service Well is not equipped with Bradenhead access, the Well must pass an initial mechanical integrity test pursuant to Rule 417 and subsequent mechanical integrity tests at the frequency specified in Rule 417.c.(2).
 - C.** The Director may require the Operator to perform a mechanical integrity test if the Director has reasonable cause to believe the Well poses a particular risk to public health, safety, welfare, the environment, or wildlife resources. Except as otherwise required by Rule 419 or 420 or an imminent and substantial threat to public health, safety, welfare, the environment, or wildlife resources, an Operator will have 12 months to perform a mechanical integrity test required by the Director under this Rule 434.d.(11).C.
 - D. Inspection Requirements.** An Operator will conduct an Audio, Visual, Olfactory (“AVO”) or other inspection of each Out of Service Well annually to confirm integrity of the wellhead. When performing an AVO inspection, an Operator will survey the wellhead using audio, visual, and olfactory techniques to detect failures, leaks, Spills, or Releases, or signs of a leak, Spill, or Release.
- (12)** This Rule 434.d does not apply to Gas Storage Wells, which the Commission considers to be active at all times unless the Gas Storage Well is physically plugged.

436. SEISMIC OPERATIONS, NOTICE, CONSULTATION AND REPORTING

- g. Financial Assurance Requirements.** The Operator will file Financial Assurance pursuant to Rule 703.b prior to submitting the Form 20.

**RULES OF PRACTICE AND PROCEDURE
500 SERIES**

503. APPLICATIONS FOR A HEARING BEFORE THE COMMISSION

- g. Commission Application Types.** The following applications may be filed with the Commission for adjudication:
- (1) Oil and Gas Development Plan.** An Oil and Gas Development Plan application will satisfy the requirements set forth in Rule 303. Only an Owner or Operator within the proposed Oil and Gas Development Plan may file an Oil and Gas Development Plan.
 - (2) Drilling Units.** Pursuant to Rule 305, applications for the creation of drilling units, additional Wells within existing drilling units, other applications for modifications to existing drilling unit orders, or applications for exception locations not subject to Rule 401.c. Only an Owner or Operator within the proposed or existing unit may file an application pursuant to this Rule 503.g.(2).
 - (3) Pooling and Unitization Applications.** A statutory pooling application filed pursuant to § 34-60-116, C.R.S., or a unitization application filed pursuant to § 34-60-118, C.R.S. Unitization applications will satisfy the information requirements set forth in Rule 505. Statutory pooling applications will satisfy the information requirements set forth in Rules 505 & 506.
 - (4) Order Finding Violation.** An Order Finding Violation (“OFV”) application will include the NOAV. Only the Director may be the Applicant for an OFV.
 - (5) Payment of Proceeds.** A payment of proceeds application will satisfy the information requirements set forth in Rules 429 or 430, and will be submitted on a Form 38, Payment of Proceeds Hearing Request.
 - (6) School and Child Care Center Setbacks.** A School and Child Care Center setback application will satisfy the information requirements set forth in Rule 604.a.(3).
 - (7) Petition for Review.** A complainant’s Petition for Review will satisfy the requirements of Rule 524.e.
 - (8) Comprehensive Area Plan.** A Comprehensive Area Plan will satisfy the requirements of Rule 314. Only an Owner or Operator may file a Comprehensive Area Plan.
 - (9) Variances.** An application for a variance will satisfy the requirements of Rule 502.
 - (10)** Any person may seek relief or a ruling from the Commission on any other matter not described in Rules 503.g.(1)–(9) & (11)–(12). Rulemaking petitions are not relief or rulings covered by this Rule 503.g.(10) and may be filed by any person pursuant to Rule 529.b.
 - (11) Financial Assurance.** An application for a Financial Assurance hearing will satisfy the requirements of Rules 218.b.(5).D, 218.i.(2), 434.d.(8), 701.b, 702.b, 703.b.(1).A, 703.d.(2).C, 704.b, 706.b, 706.c.(1), 706.e, 707.a, or 707.b. If the Commission initiates a Financial Assurance hearing on its own motion pursuant to Rule 503.a and 707.b, or the Director initiates a Financial Assurance hearing pursuant to Rules 218.b.(5).D, 434.d.(8).B.ii, 706.b, or 707.a.(2), it will be the responsibility of the Operator subject to the hearing to compile any information required by those Rules and submit it into the docket for the proceeding.

(12) Well or Location Closure. An application to require Plugging and Abandonment of a Well or closure of an Oil and Gas Location or Oil and Gas Facility will satisfy the requirements of Rule 211.

- A.** The Director may file an application to Plug and Abandon a Well or close an Oil and Gas Location pursuant to Rule 211.
- B.** The Relevant Local Government or Surface Owner may file an application to Plug and Abandon a Well or close an Oil and Gas Location pursuant to Rule 211. Such application by a Relevant Local Government or Surface Owner will include:
 - i.** A certification that the Relevant Local Government or Surface Owner has conferred in good faith with the Operator;
 - ii.** A certification that the Well has been a Low Producing Well each year of the previous three years; and
 - iii.** Evidence demonstrating that the Well is:
 - aa.** A threat to public health, safety, welfare, the environment, or wildlife resources; or
 - bb.** No longer Used or Useful.
- h.** Unless provided for in the Commission's Rules, or the Commission otherwise orders, all matters submitted to the Commission for adjudication will automatically be assigned to an Administrative Law Judge or Hearing Officer. An assignment to an Administrative Law Judge or Hearing Officer will encompass all issues of fact and law concerning the matter unless the Commission specifies otherwise in a written order. Notwithstanding the foregoing, the following will be considered only by the Commission and not a Hearing Officer or Administrative Law Judge:
 - (1)** Approval of Comprehensive Area Plans filed pursuant to Rule 314;
 - (2)** Applications seeking a hearing pursuant to Rules 604.a.(3) or 604.b.(4);
 - (3)** Variance requests to the Commission filed pursuant to Rule 502.a;
 - (4)** Rulemaking proceedings held pursuant to Rule 529;
 - (5)** Financial Assurance hearings pursuant to Rules 218.b.(5).D, 218.i.(2), 434.d.(8), 701.b, 702.b, 703.b.(1).A, 703.d.(2).C, 704.b, 706.b, 706.c.(1), 706.e, 707.a, or 707.b; and
 - (6)** Well or Location Closure hearings pursuant to Rule 211.

504. NOTICE FOR HEARING

a. General Notice Provisions.

- (1)** When any proceeding has been initiated, the Commission will require a copy of the application, together with a notice of such proceeding, to be provided to all persons specified in the relevant sections of Rules 504.b–f at least 60 days in advance of the noticed hearing date. Notice will be provided pursuant to the requirements of § 34-60-108(4), C.R.S., and will be drafted by the Secretary. A signed, electronic copy will be provided to the Applicant in sufficient time for delivery to those who require notice. The application and

notice will be provided directly by the Applicant, using the Applicant's return address. The Applicant is responsible for service and publication of required notices, including any related costs.

- A. If the application is for an Oil and Gas Development Plan, the Operator will comply with the notice provisions of Rule 303.e prior to a hearing on the Oil and Gas Development Plan.
- (2) No later than 30 days before the noticed hearing date, the Applicant will submit to the Secretary:
 - A. A certificate of service demonstrating that the Applicant served a copy of the application and notice on all persons entitled to notice pursuant to the Commission's Rules. The certificate of service will include a list of all persons who received a copy of the application and notice, including identification of mailed notices returned to the Applicant as undeliverable; and
 - B. A notarized affidavit providing assurance that the Applicant published a copy of the notice in a newspaper of general circulation in the City and County of Denver and a newspaper of general circulation in the county where the land affected is situated, and the date of publication for each newspaper used. The Applicant is not required to submit a notarized proof of publication from the newspapers, or copies of the publications, unless a concern with publication is raised. Service of process by publication to unknown addresses will occur through five weeks of publication ending at the Rule 507 petition deadline, at least 30 days prior to the noticed hearing date.
 - (3) The Secretary will give notice to any person who has filed a request to be placed on the Commission's general email notification list. Notice by publication or notice provided pursuant to the Commission's general email list does not confer interested party status on any person.
 - (4) Notice by publication or notice by electronic mail provided pursuant to this subsection does not confer Affected Person status on any person.
- b. Notice for Specific Applications.**
- (1) **Applications for Oil and Gas Development Plans.** Oil and Gas Development Plan applications will be served on all persons identified in Rules 303.d.(2) & 303.e.(1).
 - (2) **Applications related to Drilling Units.** For purposes of applications for drilling units, additional Wells within existing drilling units, or other applications for modifications of, or exceptions to, existing drilling unit orders but not including applications subject to Rule 504.b.(6), the application and notice will be served on the leasehold interest owners and any unleased mineral Owners within the proposed drilling unit or within the existing drilling unit to be affected by the applications. The persons identified in Rule 303.d.(2) will also receive notice of such an application.
 - (3) **Applications for Involuntary Pooling.** For purposes of applications for involuntary pooling orders made pursuant to § 34-60-116, C.R.S., the application and notice will be served on those persons who own any interest in the mineral estate, whether leased or unleased, of the tracts to be pooled, except Owners of an overriding royalty interest.
 - (4) **Applications for Unitization.** For purposes of applications for unitization made pursuant to § 34-60-118, C.R.S., the application and notice will be served on those persons who

own any interest in the mineral estate underlying the tract or tracts to be unitized and the Owners within one-half mile of the tract or tracts to be unitized.

- (5) **Applications Changing Certain Well Completion Setbacks.** For purposes of applications that change the ordered minimum Well completion setbacks for Drilling and Spacing Unit boundaries, the application and notice will be served on those Owners of Cornering and Contiguous Units or tracts who may be affected by such change, provided that when the Applicant owns any interest covering such tract, the person who owns the mineral estate underlying the tract covered by such lease will also be notified.
- (6) **Applications for Well Completion Exception.** For purposes of applications for exceptions to Rules 401.a & b not granted pursuant to Rule 401.c, the application and notice will be served on the Owners of any Cornering and Contiguous Units or tracts upon which the Well completion location is encroaching, provided that when the Applicant owns any interest covering such tract or unit, the person who owns the mineral estate underlying the tract covered by such lease will also be notified.
- (7) **Applications for Variances.** For purposes of requesting a variance pursuant to Rule 502, the application and notice will be served on the Director and the Relevant Local Government. Upon review of the application, the Director may request, and the Secretary has discretion to require, that notice be served on any necessary person based on the person's potential legal interest or the potential impact of the variance. A necessary person may include but is not limited to a potentially impacted Governmental Agency, potentially impacted Surface Owner, or other potentially impacted person. For any variance requested as part of an application subject to Rules 504.b.(1)–(6), no additional notice will be required.
- (8) **All Other Applications.** For any application not specified in Rules 504.b.(1)–(7) or (9)–(11), the Secretary has discretion to determine who is entitled to receive the application and notice, based on legal interest and potential impact.
- (9) **Orders Related to Violations.** With respect to the resolution of an NOAV, the application and notice will be provided to a relevant complainant (if any), to the alleged violator or alleged Responsible Party, or Operator, as applicable, and by publication pursuant to § 34-60-108(4), C.R.S.
- (10) **Financial Assurance Hearings.**
 - A. If an Operator seeks a Financial Assurance hearing pursuant to Rules 434.d.(8).C, 701.b, 702.b, 703.b.(1).A, 703.d.(2).C, 706.e, 707.a.(1).E, or 707.b.(1), the Operator will serve the application and notice on the Director. For a Financial Assurance hearing pursuant to Rule 702.b, an Operator will also notify the Relevant Local Government if the Financial Assurance Plan includes Wells within its jurisdiction. If a Buying Operator seeks a Financial Assurance Hearing pursuant to Rule 218.b.(5).D, the Buying Operator will also serve the application and notice on the Selling Operator. If a Selling Operator seeks a Financial Assurance Hearing pursuant to Rule 218.b.(5).D, the Selling Operator will also serve the application and notice on the Buying Operator.
 - B. If the Commission initiates a Financial Assurance hearing on its own motion pursuant to Rule 503.a or 707.b, the Secretary will provide notice to the Operator.
 - C. If the Director initiates a Financial Assurance hearing pursuant to Rules 218.b.(5).D, 218.i.(2), 434.d.(8).B.ii, 706.b, or 707.a.(2), the Secretary will provide notice to the Operator. For hearings to call Surety Bonds and Letters of Credit, or to foreclose on any liens or other assets pursuant to Rules 218.i.(2) & 706.b.(2).B–C, the Secretary

will also provide notice to the third-party provider of the Financial Assurance being called or foreclosed upon.

- D. If a Surface Owner initiates a Financial Assurance hearing pursuant to Rule 704.b, the Surface Owner will provide notice to the Operator and the Director.
- E. If a third-party provider of Financial Assurance initiates a Financial Assurance hearing pursuant to Rule 706.c.(1), the third-party provider of Financial Assurance will provide notice to the Director.

(11) Well or Location Closure Hearings.

- A. If the Director initiates a Well or Location Closure hearing pursuant to Rule 211, the Secretary will provide notice to the Operator.
- B. If the Relevant Local Government or Surface Owner initiates a Well or Location Closure hearing pursuant to Rule 211, the Applicant will provide notice to the Operator and the Director.
- c. **Notice to the Colorado State Board of Land Commissioners.** The application and notice will also be given to the Colorado State Board of Land Commissioners for all applications where the Colorado State Board of Land Commissioners maintains a mineral ownership included in the application lands.
- d. **Notice to Colorado Parks and Wildlife.** The application and notice will also be given to CPW for all applications where CPW maintains a mineral ownership included in the application lands.
- e. **Notice to Tribal Governments.** The application and notice will also be given to the Southern Ute Indian Tribe or the Ute Mountain Ute Tribe for all applications involving minerals within the exterior boundary of either tribe's reservation where both the surface and oil and gas estates are owned in fee by persons or entities other than the Tribe.
- f. **Notice to the Bureau of Land Management.** The application and notice will also be given to the Bureau of Land Management for all applications where the Bureau of Land Management maintains or manages a mineral or surface ownership included in the application lands.

505. EVIDENCE IN SUPPORT OF AN APPLICATION

Applicants seeking relief under Rules 503.g.(1)–(3) & (8)–(9) will submit the documents described in Rules 505.a–e below to the Commission with its application. The Commission, Administrative Law Judge, or Hearing Officer will determine if additional evidence is needed on a case-by-case basis. If the application lacks sufficient information or evidence, the application may be continued at the Commission, Administrative Law Judge, or Hearing Officer's discretion.

- a. Sworn written testimony, of relevant witnesses verifying land, geologic, engineering, public health, safety, welfare, the environment, and wildlife facts, or such other facts and testimony as may be required by the Commission's Rules. Geologic and engineering written testimony are only required for applications made pursuant to Rules 503.g.(1)–(3) & (8), except for statutory pooling applications filed pursuant to Rule 503.g.(3). Such testimony will be accompanied by attachments or exhibits that adequately support and are specific to the relief requested in the application, along with resumes/curricula vitae for each witness.
- b. A statement, signed under oath, from a person having knowledge of the stated facts, attesting to the facts stated in the written testimony and any attachments or exhibits. The sworn statement need not be notarized, but it will contain language indicating that the signatory is affirming that

submitted testimony and supporting documents are true and correct to the best of the signatory's knowledge and belief and, if applicable, that they were prepared by the signatory or under the signatory's supervision.

- c. A sworn statement that is a summary of the testimony to support the relief requested in the application, including a request to take administrative notice of repetitive general, technical, or scientific evidence, where appropriate.
- d. 1 set of exhibits which will contain relevant highlights in bullet-point format on each exhibit.
- e. A draft proposed order, if requested by the Administrative Law Judge or Hearing Officer, with findings of fact and conclusions of law related to land, geology, engineering, public health, safety, welfare, the environment and wildlife, and other appropriate subjects to support the relief requested in the application. Geologic and engineering evidence are not required for a Rule 503.g.(3) order. Reference to testimony, exhibits, and previous Commission orders will be included as findings in the draft proposed order.
- f. No sworn testimony is required to support an application under Rules 503.g.(11), but the Commission, Administrative Law Judge, or Hearing Officer may require an Applicant or other party to a Financial Assurance hearing to submit sworn testimony or other evidence as necessary during the course of proceedings.
- g. The Director or a Relevant Local Government filing an application to Plug and Abandon a Well or close an Oil and Gas Location pursuant to Rule 503.g.(12) need not submit sworn testimony with its hearing application but will submit all evidence necessary to support the basis for its application pursuant to Rule 211.

**FINANCIAL ASSURANCE
700 SERIES**

701. TYPES OF FINANCIAL ASSURANCE

- a. Preferred Types of Financial Assurance.** To demonstrate its capacity to perform all of its obligations under the Act and the Commission's Rules, each Operator will provide the Commission with the following types of Financial Assurance:
- (1) A Cash Bond; or
 - (2) A Surety Bond.
- b. Alternative Types of Financial Assurance.** An Operator may request a hearing pursuant to Rule 503.g.(11) to obtain the Commission's approval to provide a type of Financial Assurance explicitly authorized by § 34-60-106(13)(a)–(f), C.R.S.
- (1) **Proving Equivalency.** If an Operator seeks the Commission's approval of a lien, Letter of Credit, security interest, escrow account, sinking fund, Third-Party Trust Fund, or other financial instrument that is not a Cash Bond or Surety Bond, the Operator will prove that the proposed type of Financial Assurance is equivalent to a Cash Bond or Surety Bond.
 - (2) **Self-Bonding Strongly Disfavored.** Unless the Operator is a Local Government, the Commission will presumptively not accept a guarantee of performance based on an Operator's demonstration of sufficient net worth unless the Operator proves, through a personal guarantee of a corporate officer, on an annual basis:
 - A. Audited Financial Statements.** Its current net worth, as demonstrated through financial statements accompanied by an unmodified opinion issued by an independent auditor;
 - B. Conservative Estimate of Net Worth.** That its net worth is greater than 20 times the estimated cost to Plug and Abandon and Reclaim all Oil and Gas Operations in Colorado; and
 - C. Multi-Agency Guarantees Prohibited.** The Operator is not subject to a guarantee of performance based on the same net worth as a form of Financial Assurance provided to any other local, state, tribal, or federal government agency, or to a foreign nation.
- c. Commission's Interest in Active Financial Assurance.**
- (1) **Commission's Expenditure.** All types of Financial Assurance may be expended by the Commission if an Operator fails to perform its obligations under the Act or the Commission's Rules, including its Plugging and Abandonment, Reclamation, and Remediation obligations.
 - (2) **Operator's Contingent Reversionary Interest.** If an Operator fails to fulfill any of its obligations under the Act and the Commission's Rules, the Operator will have no contract or property interest in any type of Financial Assurance other than a contingent reversionary interest in the surplus, if any, which arises:
 - A.** After the Director determines that the Operator has complied with all Plugging and Abandonment, Reclamation, and Remediation obligations pursuant to Rule 706.a; or

- B. After a Buying Operator has filed a satisfactory replacement Financial Assurance pursuant to Rule 218.g.(4), and the Director has approved the applicable Form 9, Transfer of Operatorship – Subsequent.

d. **Riders Prohibited.**

- (1) **New Riders.** The Commission will not authorize any new bond riders after April 30, 2022, except:

- A. In the instance of an Operator changing its name without any associated transfer of assets pursuant to Rule 218; or

- B. As the result of changing the amount of Financial Assurance provided without any associated transfer of assets pursuant to Rule 218.

- (2) **Existing Riders.** Operators whose Financial Assurance is partially or entirely provided through a rider on another Operator's bond as of April 30, 2022 will submit a Financial Assurance Plan for the review and approval or denial in accordance with Rule 702.b, addressing the liability posed by the rider.

- e. **Form 3A, Financial Assurance.** To provide Financial Assurance, update or change Financial Assurance or related information pursuant to the 700 Series Rules, an Operator will file a Form 3A, Financial Assurance, unless a Rule specifies a different form or notice mechanism.

702. FINANCIAL ASSURANCE FOR PLUGGING, ABANDONMENT, AND RECLAMATION

- a. **Applicability.** All references to Wells in this Rule 702 include Wells subject to an approved but not yet expired Form 2, Application for Permit to Drill that have not yet been Spud. This Rule 702 applies to every Well and its associated Oil and Gas Location and Oil and Gas Facility, in Colorado, unless the Operator demonstrates that it has already provided or will provide Financial Assurance for the same Well, Oil and Gas Location, or Oil and Gas Facility to the federal government at the time it files a Form 2, Application for Permit to Drill, an Oil and Gas Development Plan, or a Financial Assurance Plan pursuant to this Rule 702. This exception will continue until no later than 90 days after the effective date of any final rule adopted by the U.S. Bureau of Land Management to update the federal bonding requirements found in 43 C.F.R. § 3104, and in no case later than October 15, 2023. Following the expiration of this exception, all Operators with Wells subject to federal bonding requirements will file a revised Financial Assurance Plan pursuant to Rule 702.b.(2) and, based upon the Financial Assurance Option, the Commission or Director will determine whether the financial assurance required by the federal government is substantially equivalent to the Commission's 700 Series and, if not, what additional Financial Assurance is required so long as the additional Financial Assurance does not duplicate financial assurance imposed by the federal government.

- b. **Form 3, Financial Assurance Plan.** Operators of 1 or more Wells will file Financial Assurance Plans as required by this Rule 702.b. Each Financial Assurance Plan will demonstrate how the Operator is financially capable of fulfilling its obligations under the Act and the Commission's Rules.

- (1) **Initial Financial Assurance Plan Submissions.**

- A. **Existing Operators' Deadlines for Initial Financial Assurance Plan Submission.** All Operators of 1 or more Wells with an active Form 1, Registration for Oil and Gas Operations as of April 30, 2022 will submit an initial Financial Assurance Plan according to the following deadlines:

- i. Operators with 50 or more Wells: July 1, 2022.
- ii. Operators with greater than 10 but fewer than 50 Wells: October 1, 2022.
- iii. Operators with 10 or fewer Wells: December 31, 2022.

B. New Operators. An Operator of 1 or more Wells that files a new Form 1 after April 30, 2022 will submit an initial Financial Assurance Plan concurrently with its Form 1.

C. Review of Initial Financial Assurance Plan.

- i. **Director's Review of Initial Financial Assurance Plan.** If an Operator's initial Financial Assurance Plan meets the criteria in Rules 702.d.(1) or (2), or the Operator's initial Financial Assurance Plan provides Single Well Financial Assurance for all Wells and does not request a modification of the presumptive annual contribution pursuant to Rules 702.d.(3) or (4), the Plan will be subject to review by the Director. If the Director denies the initial Financial Assurance Plan, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11). Only CDPHE, CPW, or a Relevant Local Government with jurisdiction over Wells subject to the Operator's Financial Assurance Plan may file a petition pursuant to Rule 507 to participate formally as a party in the Financial Assurance hearing.
- ii. **Commission's Review of Initial Financial Assurance Plan.** For any submitted initial Financial Assurance Plan that does not qualify for Director review pursuant to Rule 702.b.(1).C.i, the Operator will file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) concurrently with filing its Financial Assurance Plan. Only CDPHE, CPW, or a Relevant Local Government with jurisdiction over Wells subject to the Operator's Financial Assurance Plan may file a petition pursuant to Rule 507 to participate formally as a party in the Financial Assurance hearing.

(2) Revised Financial Assurance Plans. An Operator will file a revised Financial Assurance Plan if the Operator believes that a change to its approved Financial Assurance Plan is warranted due to a change in circumstance. Only CDPHE, CPW, or a Relevant Local Government with jurisdiction over Wells subject to the Operator's Financial Assurance Plan may file a petition pursuant to Rule 507 to participate formally as a party in the Financial Assurance hearing.

- A.** If an Operator's revised Financial Assurance Plan meets the criteria in Rules 702.d.(1) or (2), or the Operator's revised Financial Assurance Plan provides Single Well Financial Assurance for all Wells and does not request a modification of the presumptive annual contribution pursuant to Rules 702.d.(3) or (4), the Plan will be subject to review by the Director. If the Director denies the revised Financial Assurance Plan, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).
- B.** For any submitted revised Financial Assurance Plan that does not qualify for Director review pursuant to Rule 702.b.(2).A, the Operator will file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) concurrently with filing its revised Financial Assurance Plan.

(3) Director's Annual Review. The Director may require an Operator to file a revised Financial Assurance Plan and file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) based on the Director's annual review pursuant to Rule 707.b.

- c. Financial Assurance Plan Options.** Operators will file a Financial Assurance Plan in accordance with the listed Options. For purposes of any Option that includes a production threshold, the Operator will use the barrels of oil equivalent (“BOE”) or and thousand cubic feet of gas equivalent (“MCFE”) threshold depending on the aggregate gas-to-oil ratio (“GOR”) of the production from all of its Wells. The BOE thresholds apply to Operators with an aggregate GOR equal to or less than 15,000 standard cubic feet (“SCF”)/barrels of oil (“BBL”); the MCFE thresholds apply to Operators with an aggregate GOR of greater than 15,000 SCF/BBL. Aggregate GOR is calculated by dividing the Operator’s total gas production (in thousand cubic feet (“MCF”)) over the previous 12 months by the Operator’s total oil production (in BBL) over the previous 12 months and multiplying by 1,000. Operators will use the conversion factor of 5.8 to convert MCF to BBL and vice versa. For purposes of calculating the average daily per-Well production, the Operator will not include Class II UIC Wells that are not Inactive Wells, Wells used for the purpose of monitoring or observing an oil or gas reservoir, and Stratigraphic Wells.
- (1) Option 1.** An Operator may file a Financial Assurance Plan that meets the criteria of Rule 702.d.(1) if:
- A.** The Operator’s average daily per-Well production exceeds 60 BOE over the previous 12 months; or
 - B.** The Operator’s average daily per-Well production exceeds 90 MCFE over the previous 12 months.
- (2) Option 2.** An Operator may file a Financial Assurance Plan that meets the criteria of Rule 702.d.(2) if:
- A.** The Operator’s average daily per-Well production exceeds 15 BOE and is less than or equal to 60 BOE over the previous 12 months; or
 - B.** The Operator’s average daily per-Well production exceeds 22 MCFE and is less than or equal to 90 MCFE over the previous 12 months.
- (3) Option 3.** An Operator may file a Financial Assurance Plan that meets the criteria of Rule 702.d.(3) if:
- A.** The Operator’s average daily per-Well production exceeds 2 BOE and is less than or equal to 15 BOE over the previous 12 months; or
 - B.** The Operator’s average daily per-Well production exceeds 6 MCFE and is less than or equal to 22 MCFE over the previous 12 months.
- (4) Option 4.** If an Operator does not meet the criteria in Rules 702.c.(1), (2), (3), or (6), or reports zero production from its oil or gas Wells during the previous 12 months, the Operator will file a Financial Assurance Plan that meets the criteria of Rule 702.d.(4).
- (5) Option 5.** An Operator may file a Financial Assurance Plan based on individual circumstances that demonstrate the Operator is financially capable of fulfilling all of the obligations imposed by the Act and the Commission’s Rules. An Operator may only submit a Financial Assurance Plan that meets the criteria of Rule 702.d.(5) due to circumstances that make it unnecessary or unreasonable for the Operator to submit the Financial Assurance amounts specified in Rules 702.d.(1)–(4), or for other exceptional circumstances.

- (6) **Option 6.** An Option 6 Financial Assurance Plan is subject to regular review every 3 years pursuant to Rule 707.b.(1). An Operator may file a Financial Assurance Plan that meets the criteria of Rule 702.d.(6) if:
- A. The Operator's average daily per-Well production exceeds 40 BOE or 60 MCFE over the previous 12 months, and the Operator is a public company subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, 15 U.S.C. § 78a, et seq.; or
 - B. The Operator's average daily per-Well production exceeds 60 BOE or 90 MCFE over the previous 12 months, and the Operator is a private company.
- (7) **Consolidation of Related Operators.** Where a registered Operator owns, holds, or controls 50% or more of one or more other registered Operators, that parent company Operator and its subsidiary Operators may be consolidated, at their discretion, for purposes of determining Financial Plan Option eligibility and applicable amount of required Rule 702 Series Financial Assurance, provided the parent Operator guarantees all Rule 702 Series Financial Assurance obligations for itself and the consolidated subsidiary entities. Consolidation under this Rule will include all of a parent Operator's subsidiary Operators.
- d. **Contents of Financial Assurance Plans.** Financial Assurance Plans will meet the informational criteria listed below.
- (1) **Option 1 Plans.**
- A. **Information Requirements.** An Operator that meets the criteria of Rule 702.c.(1) will file a Financial Assurance Plan that includes the following information to demonstrate it satisfies the criteria for Option 1:
 - i. **Production Data.** The total MCF and BBLs reported during the previous 12 months and the Operator's calculated GOR.
 - ii. **Well Status and Designation Data.** A summary table accounting for all Wells, including the number of Wells that falls within each operational status and designation, as of the date the Financial Assurance Plan is submitted.
 - iii. **Well Plugging Data.** The number of Wells Plugged and Abandoned by the Operator during each of the previous three years.
 - iv. **Inactive Well List.** A list of all the Operator's Inactive Wells that includes the name, number, API number, status, reason for no or low production, and planned date for return to production or plug each Well.
 - v. **Asset Retirement Planning.** A demonstration of how the Operator is planning for the retirement of its Oil and Gas Operations based on the projected life of the field, age of the infrastructure, Out of Service, Inactive, and Low Producing Wells, and related information.
 - B. **Financial Assurance Amount.** The amount of Financial Assurance the Operator will provide to the Commission as soon as practicable but no later than 90 days from the Commission's approval of the Financial Assurance Plan, which will be:
 - i. **Blanket Financial Assurance Amount (excludes Out of Service Wells).**
 - aa. \$12,000 per Well if the Operator operates less than or equal to 50 Wells;

- bb. \$10,000 per Well if the Operator operates more than 50 Wells and less than or equal to 150 Wells;
- cc. \$5,000 per Well if the Operator operates more than 150 Wells and less than or equal to 1,500 Wells;
- dd. \$3,000 per Well if the Operator operates more than 1,500 Wells and less than or equal to 4,000 Wells; or
- ee. \$1,500 per Well if the Operator operates more than 4,000 Wells.

ii. **Low Producing, Inactive, or Out of Service Well Financial Assurance.**

- aa. **Low Producing Wells.** The Operator's blanket bond will cover Low Producing Wells up to 10% of the Operator's total number of Wells (excluding Out of Service Wells). The Operator will provide Single Well Financial Assurance for any Low Producing Well that exceeds the 10% threshold.
- bb. **Inactive and Out of Service Wells.** The amount of Financial Assurance required by the Director pursuant to Rules 434.c & d.
- cc. **Transferred Low Producing Wells.** Single Well Financial Assurance for any Low Producing Well that exceeds the threshold set forth in Rule 702.d.(1).B.ii.aa and was subject to a transfer of operatorship approved by the Director pursuant to Rule 218.g.

iii. **Other Financial Assurance.** The amount of Financial Assurance required for:

- aa. Other Oil and Gas Facilities pursuant to Rule 703;
- bb. Surface Owner protection pursuant to Rule 704; and
- cc. Remediation pursuant to Rule 703.b.

C. Type of Financial Assurance. The type of Financial Assurance the Operator proposes to provide, pursuant to Rule 701.

D. Certification of Financial Capability. An Operator will provide a Certification of Financial Capability signed by an Operator's corporate officer to ensure it is financially capable of meeting all of the obligations imposed by the Act and Commission's Rules.

(2) **Option 2 Plans.**

A. Information Requirements. An Operator that meets the criteria of Rule 702.c.(2) will file a Financial Assurance Plan that includes the following information to demonstrate it satisfies the criteria for Option 2:

- i. **Production Data.** The total MCF and BBLs reported during the previous 12 months and the Operator's calculated GOR.
- ii. **Well Status and Designation Data.** A summary table accounting for all Wells, including the number of Wells that falls within each operational status and designation, as of the date the Financial Assurance Plan is submitted.

- iii. **Well Plugging Data.** The number of Wells Plugged and Abandoned by the Operator during each of the previous three years.
 - iv. **Inactive Well List.** A list of all the Operator's Inactive Wells that includes the name, number, API number, status, reason for no or low production, and planned date for return to production or plug each Well.
 - v. **Asset Retirement Planning.** A demonstration of how the Operator is planning for the retirement of its Oil and Gas Operations based on the projected life of the field, age of the infrastructure, Out of Service, Inactive, and Low Producing Wells, and related information. For each Inactive Well, the Operator will identify the reason for no or low production and the planned date to return to production or plug the Well.
- B. Financial Assurance Amount.** The total amount of Financial Assurance the Operator will provide to the Commission as soon as practicable but no later than 90 days from the Commission's approval of the Financial Assurance Plan, which will be:
- i. **Blanket Financial Assurance Amount (excludes Out of Service Wells).**
 - aa. \$18,000 per Well if the Operator operates less than or equal to 50 Wells;
 - bb. \$15,000 per Well if the Operator operates more than 50 Wells and less than or equal to 150 Wells;
 - cc. \$12,000 per Well if the Operator operates more than 150 Wells and less than or equal to 1,500 Wells;
 - dd. \$10,000 per Well if the Operator operates more than 1500 Wells and less than or equal to 4,000 Wells; or
 - ee. \$8,000 per Well if the Operator operates more than 4,000 Wells.
 - ii. **Low Producing, Inactive, or Out of Service Well Financial Assurance.**
 - aa. **Low Producing Wells.** The Operator's blanket bond will cover Low Producing Wells up to 5% of the Operator's total number of Wells (excluding Out of Service Wells). The Operator will provide Single Well Financial Assurance for any Low Producing Well that exceeds the 5% threshold.
 - bb. **Inactive and Out of Service Wells.** The amount of Financial Assurance required by the Director pursuant to Rules 434.c & d.
 - cc. **Transferred Low Producing Wells.** Single Well Financial Assurance for any Low Producing Well that that exceeds the threshold set forth in Rule 702.d.(2).B.ii.aa and was subject to a transfer of operatorship approved by the Director pursuant to Rule 218.g.
 - iii. **Other Financial Assurance.** The amount of Financial Assurance required for:
 - aa. Other Oil and Gas Facilities pursuant to Rule 703;
 - bb. Surface Owner protection pursuant to Rule 704; and
 - cc. Remediation pursuant to Rule 703.b.

C. Type of Financial Assurance. The type of Financial Assurance the Operator proposes to provide, pursuant to Rule 701.

D. Certification of Financial Capability. An Operator will provide a Certification of Financial Capability signed by an Operator's corporate officer to ensure it is financially capable of meeting all of the obligations imposed by the Act and Commission's Rules.

(3) Option 3 Plans.

A. Information Requirements. An Operator requesting Commission approval pursuant to Rule 702.c.(3) will file a Financial Assurance Plan that includes the following information to demonstrate it satisfies the criteria for Option 3:

- i. Production Data.** The total MCF and BBLs reported during the previous 12 months and the Operator's calculated GOR.
- ii. Well Status and Designation Data.** A summary table accounting for all Wells, including the number of Wells that falls within each operational status and designation, as of the date the Financial Assurance Plan is submitted.
- iii. Well Plugging Data.** The number of Wells Plugged and Abandoned by the Operator during each of the previous three years.
- iv. Inactive Well List.** A list of all the Operator's Inactive Wells that includes the name, number, API number, status, reason for no or low production, and planned date for return to production or plug each Well.
- v. Asset Retirement Planning.** A demonstration of how the Operator is planning for the retirement of its Oil and Gas Operations based on the projected life of the field, age of the infrastructure, Out of Service, Inactive, and Low Producing Wells, and related information. For each Inactive Well, the Operator will identify the reason for no or low production and the planned date to return to production or plug the Well.

B. Financial Assurance Amount. The total amount of Financial Assurance the Operator will provide to the Commission over time, which will be:

- i. Wells.** Single Well Financial Assurance for every Well, unless the Commission approves an alternative amount for a transferred Low Producing Well pursuant to Rule 218.g, or the Director approves an alternative amount pursuant to Rule 434.d.
- ii. Other Financial Assurance.** The amount of Financial Assurance required for:
 - aa.** Other Oil and Gas Facilities pursuant to Rule 703;
 - bb.** Surface Owner protection pursuant to Rule 704; and
 - cc.** Remediation pursuant to Rule 703.b.

C. Time to Submit Contributed Financial Assurance. The contribution amount of the Operator's Contributed Financial Assurance will increase each year as established pursuant to the Operator's Financial Assurance Plan.

- i.** The presumptive annual contribution will be 5% of the total amount of Financial Assurance required pursuant to Rule 702.d.(3).B until the Operator's Contributed Financial Assurance meets or exceeds its Financial Assurance amount. The

Commission may adjust this timeline based upon considerations of the field life for the Operator's Oil and Gas Operations.

- ii. **Credit for Completion of Plugging and Abandonment and Reclamation.** The Single Well Financial Assurance amount of any Well for which the Director has approved a Form 6, Subsequent Report of Abandonment will apply towards an Operator's Contributed Financial Assurance amount. If the Operator is claiming credit, the Operator will submit the amount of credit and supporting information on a Form 3A. An Operator may not claim credit for the Plugging and Abandonment and Reclamation of an Out of Service Well on its Plugging List pursuant to Rule 434.d.
- iii. **Release of Financial Assurance.** Once the Operator's Contributed Financial Assurance meets or exceeds its Financial Assurance amount, the Operator may submit a Form 3A requesting release of the Single Well Financial Assurance for any Well the Operator has fully Plugged and Abandoned and Reclaimed pursuant to Rule 706.a.(4).

D. **Type of Financial Assurance.** The type of Financial Assurance the Operator proposes to provide, pursuant to Rule 701.

E. **Certification of Financial Capability.** An Operator will provide a Certification of Financial Capability signed by an Operator's corporate officer to ensure it is financially capable of meeting all of the obligations imposed by the Act and Commission's Rules.

(4) **Option 4 Plans.**

A. **Information Requirements.** An Operator requesting Commission approval pursuant to Rule 702.c.(4) will file a Financial Assurance Plan that includes the following information:

- i. **Production Data.** The total MCF and BBLs reported during the previous 12 months and the Operator's calculated GOR.
- ii. **Well Status and Designation Data.** A summary table accounting for all Wells, including the number of Wells that falls within each operational status and designation, as of the date the Financial Assurance Plan is submitted.
- iii. **Well Plugging Data.** The number of Wells Plugged and Abandoned by the Operator during each of the previous three years.
- iv. **Inactive Well List.** A list of all the Operator's Inactive Wells that includes the name, number, API number, status, reason for no or low production, and planned date for return to production or plug each Well.
- v. **Asset Retirement Planning.** A demonstration of how the Operator is planning for the retirement of its Oil and Gas Operations based on the projected life of the field, age of the infrastructure, Out of Service, Inactive, and Low Producing Wells, and related information. For each Inactive Well, the Operator will identify the reason for no or low production and the planned date to return to production or plug the Well.

B. **Financial Assurance Amount.** The total amount of Financial Assurance the Operator will provide to the Commission, over time, which will be:

- i. **Wells.** Single Well Financial Assurance for every Well, unless the Commission approves an alternative amount for a transferred Low Producing Well pursuant to Rule 218.g, or the Director approves an alternative amount pursuant to Rule 434.d.
 - ii. **Other Financial Assurance.** The amount of Financial Assurance required for:
 - aa. Other Oil and Gas Facilities pursuant to Rule 703;
 - bb. Surface Owner protection pursuant to Rule 704; and
 - cc. Remediation pursuant to Rule 703.b.
- C. Time to Submit Total Financial Assurance.** The contribution amount of an Operator's Financial Assurance will increase each year as established pursuant to the Financial Assurance Plan.
- i. The presumptive amount will be 10% of the total amount of Financial Assurance required pursuant to Rule 702.d.(4).B. The Commission may adjust this timeline considering the field life for the Operator's Oil and Gas Operations.
 - ii. **Credit for Completion of Plugging and Abandonment and Reclamation.** The Single Well Financial Assurance amount of any Well for which the Director has approved a Form 6, Subsequent Report of Abandonment will apply towards an Operator's Contributed Financial Assurance amount. If the Operator is claiming credit, the Operator will submit the amount of credit and supporting information on a Form 3A. An Operator may not claim credit for the Plugging and Abandonment and Reclamation of an Out of Service Well on its Plugging List pursuant to Rule 434.d.
 - iii. **Release of Financial Assurance.** Once the Operator's Contributed Financial Assurance meets or exceeds its Financial Assurance amount, the Operator may submit a Form 3A requesting release of the Single Well Financial Assurance for any Well the Operator has fully Plugged and Abandoned and Reclaimed pursuant to Rule 706.a.(4).
- D. Type of Financial Assurance.** The type of Financial Assurance the Operator proposes to provide, pursuant to Rule 701.
- E. Certification of Financial Capability.** An Operator will provide a Certification of Financial Capability signed by an Operator's corporate officer to ensure it is financially capable of meeting all of the obligations imposed by the Act and Commission's Rules.

(5) Option 5 Plans.

- A. Information Requirements.** An Operator requesting Commission approval pursuant to Rule 702.c.(5) will file a Financial Assurance Plan that includes the following information to demonstrate it satisfies the criteria for Option 5:
- i. **Production Data.** The total MCF and BBLs reported during the previous 12 months and the Operator's calculated GOR.
 - ii. **Well Status and Designation Data.** A summary table accounting for all Wells, including the number of Wells that falls within each operational status and designation, as of the date the Financial Assurance Plan is submitted.

- iii. **Well Plugging Data.** The number of Wells Plugged and Abandoned by the Operator during each of the previous three years.
 - iv. **Inactive Well List.** A list of all the Operator's Inactive Wells that includes the name, number, API number, status, reason for no or low production, and planned date for return to production or plug each Well.
 - v. **Asset Retirement Planning.** A demonstration of how the Operator is planning for the retirement of its Oil and Gas Operations based on the projected life of the field, age of the infrastructure, Out of Service, Inactive, and Low Producing Wells, and related information. For each Inactive Well, the Operator will identify the reason for no or low production and the planned date to return to production or plug the Well.
 - vi. **Consideration of Low Producing Wells.** A calculation of the Financial Assurance that would be required for the Operator's Low Producing Wells if the Operator pursued a Financial Assurance Plan based on its average daily per-Well production consistent with the applicable Option from Rules 702.c.(1)–(4).
- B. Financial Assurance Amount.** The amount of Financial Assurance the Operator will provide to the Commission as soon as practicable but no later than within 90 days of the Commission's approval of the Financial Assurance Plan and the Operator's justification for not pursuing a Financial Assurance Plan based on the criteria in Rules 702.c.(1)–(4). The plan will specify the amount of Financial Assurance for:
- i. **Wells.** The amount of Financial Assurance based on Well status and designation, and under what circumstances the Director will collect Single Well Financial Assurance for future Low Producing Wells.
 - ii. **Out of Service Wells.** The amount of Financial Assurance required by the Director pursuant to Rule 434.d.
 - iii. **Transferred Low Producing Wells.** Single Well Financial Assurance for any Low Producing Well as set forth in Rule 702.d.(5).B.i that was subject to a transfer of operatorship approved by the Director pursuant to Rule 218.g.
 - iv. **Other Financial Assurance.** The amount of Financial Assurance required for:
 - aa. Other Oil and Gas Facilities pursuant to Rule 703;
 - bb. Surface Owner protection pursuant to Rule 704; and
 - cc. Remediation pursuant to Rule 703.b.
- C. Type of Financial Assurance.** The type of Financial Assurance the Operator proposes to provide, pursuant to Rule 701.
- D. Certification of Financial Capability and Unmodified Opinion.** An Operator will provide a Certification of Financial Capability to ensure it is financially capable of meeting all of the obligations imposed by the Act and Commission's Rules. The Certification will be signed by an Operator's corporate officer and will include its current net worth, as demonstrated through financial statements accompanied by an unmodified opinion issued by an independent auditor.

(6) Option 6 Plans.

- A. Information Requirements.** An Operator that meets the criteria of Rule 702.c.(6) will file a Financial Assurance Plan that includes the following information to demonstrate it satisfies the criteria for Option 6:
- i. Production Data.** The total MCF and BBLs reported during the previous 12 months and the Operator's calculated GOR.
 - ii. Well Status and Designation Data.** A summary table accounting for all Wells, including the number of Wells that falls within each operational status and designation, as of the date the Financial Assurance Plan is submitted.
 - iii. Well Plugging Data.** The number of Wells Plugged and Abandoned by the Operator during each of the previous three years.
 - iv. Inactive Well List.** A list of all the Operator's Inactive Wells that includes the name, number, API number, status, reason for no or low production, and planned date for return to production or plug each Well.
 - v. Asset Retirement Planning.** A demonstration of how the Operator is planning for the retirement of its Oil and Gas Operations based on the projected life of the field, age of the infrastructure, Out of Service, Inactive, and Low Producing Wells, and related information. For each Inactive Well, the Operator will identify the reason for no or low production and the planned date to return to production or plug the Well.
- B. Financial Assurance Amount.** The total amount of Financial Assurance the Operator will provide to the Commission as soon as practicable but no later than 90 days from the Commission's approval of the Financial Assurance Plan, which will be:
- i. Comprehensive Financial Assurance Amount (excluding Out of Service Wells).** Financial Assurance for every Well, in a total amount equal to \$40,000,000.
 - ii. Low Producing, Inactive, or Out of Service Well Financial Assurance.**
 - aa. Low Producing Wells.** The Operator's comprehensive Financial Assurance amount will cover Low Producing Wells up to 25% of the Operator's total number of Wells (excluding Out of Service Wells). The Operator will provide Single Well Financial Assurance for any Low Producing Well that exceeds the 25% threshold.
 - bb. Inactive and Out of Service Wells.** The amount of Financial Assurance required by the Director pursuant to Rules 434.c & d.
 - cc. Transferred Low Producing Wells.** Single Well Financial Assurance for any Well that exceeds the threshold set forth in Rule 702.d.(6).B.ii.aa and was subject to a transfer of operatorship approved by the Director pursuant to Rule 218.g.
 - iii. Other Financial Assurance.** The amount of Financial Assurance required for:
 - aa.** Other Oil and Gas Facilities pursuant to Rule 703;
 - bb.** Surface Owner protection pursuant to Rule 704; and
 - cc.** Remediation pursuant to Rule 703.b.

- C. Type of Financial Assurance.** The type of Financial Assurance the Operator proposes to provide, pursuant to Rule 701.
- D. Certification of Financial Capability.** An Operator will provide a Certification of Financial Capability signed by an Operator's corporate officer to ensure it is financially capable of meeting all of the obligations imposed by the Act and Commission's Rules.
- e. Procedure for Review of Financial Assurance Plans.**
- (1) Director's Review.** Pursuant to Rules 702.b.(1).C.i & 702.b.(2).A, the Director will review an Operator's Financial Assurance Plan and may approve or deny such plan.
- A. Approval.** The Director may approve a Financial Assurance Plan, subject to reasonable and necessary conditions of approval, if, in the Director's judgment, the plan meets all applicable requirements this Rule 702 and demonstrates that the Operator will provide adequate Financial Assurance to comply with all of the obligations under the Act and the Commission's Rules.
- B. Denial.** The Director may deny a Financial Assurance Plan if, in the Director's judgment, the plan does not comply with this Rule 702 or does not demonstrate that the Operator will provide adequate Financial Assurance to comply with all of the obligations under the Act and the Commission's Rules.
- C. Additional Information.** If the Director determines that a Financial Assurance Plan is incomplete or deficient, or that more information is necessary to determine whether to approve or deny the Financial Assurance Plan, the Operator will provide the additional information that the Director requests. The Director will not fully consider the Financial Assurance Plan until the Operator provides the requested information.
- D. Notice of Decision.** Upon making a Decision on the Operator's Financial Assurance Plan, the Director will post the written basis for the Director's Decision on the Commission's website, and notify the Operator electronically in a manner determined by the Director.
- (2) Commission's Review.** Pursuant to Rules 702.b.(1).C.ii & 702.b.(2).B, the Director will review an Operator's Financial Assurance Plan and recommend whether the Commission should accept or deny such plan.
- A. Director Recommendation.**
- i. Recommended Acceptance.** The Director may recommend that the Commission accept a Financial Assurance Plan if it complies with the informational requirements of Rule 702.d and, in the Director's judgment, the Operator has demonstrated that it will provide adequate Financial Assurance to comply with all of its obligations under the Act and the Commission's Rules.
- ii. Recommended Denial.** The Director may recommend that the Commission deny a Financial Assurance Plan if it does not comply with all the informational requirements of Rule 702.d, or, in the Director's judgment, the Operator has not demonstrated that it will provide adequate Financial Assurance to comply with all of its obligations under the Act and the Commission's Rules.
- iii. Additional Information.** If the Director determines that a Financial Assurance Plan is incomplete, or that more information is necessary to determine whether to recommend that the Commission approve or deny the Financial Assurance Plan, the Operator will provide the additional information that the Director requests. The

Director will not issue a recommendation, and the Commission will not consider the Financial Assurance Plan, until the Operator provides the requested information.

- B. Timing of Commission's Review.** Pursuant to Rules 702.b.(1).C.ii & 702.b.(2).B, and after the Director issues a recommendation pursuant to Rule 702.e.(2).A, the Commission will consider the Financial Assurance Plan in a hearing pursuant to Rule 510.
- C. Commission Approval.** The Commission may approve a Financial Assurance Plan, subject to reasonable and necessary conditions of approval, if it determines that the plan meets all applicable requirements of this Rule 702 and demonstrates that the Operator will provide adequate Financial Assurance to comply with all of its obligations under the Act and the Commission's Rules.
- D. Commission Denial.** The Commission may deny a Financial Assurance Plan if it determines that the plan does not comply with this Rule 702 or does not demonstrate that the Operator will provide adequate Financial Assurance to comply with all of its obligations under the Act and the Commission's Rules.
- E. Additional Information.** The Commission, Administrative Law Judge, or Hearing Officer may require an Operator to submit additional information or evidence in support of its Financial Assurance Plan, pursuant to Rule 505.f.
- F. Commission's Order.** The Commission will issue an order memorializing its ruling on the Financial Assurance Plan following the Hearing. The order may include, at the Commission's discretion, one or more of the following requirements:
 - i. Deadlines.** Specific dates by which the Operator will reach full compliance with its Financial Assurance Plan, or Plug and Abandon certain Wells;
 - ii. Progress Reports.** A periodic report to the Commission or Director on the Operator's progress towards meeting certain required actions;
 - iii. Plan Renewal.** Re-submission of a Financial Assurance Plan at a future date to afford the Commission an opportunity to review any changes in the Operator's financial status; or
 - iv. Financial Assurance Amount.** The amount of Financial Assurance an Operator must provide, which may differ from the amount specified in Rules 702, 703, or 704.
- f. Transition Period.** The Director or Commission will consider any Financial Assurance in place as of April 29, 2022 as being applied towards the Operator's ongoing Financial Assurance obligations after April 30, 2022, unless the Commission issues an order specifying otherwise.

703. FINANCIAL ASSURANCE FOR OTHER OIL AND GAS FACILITIES & OPERATIONS

- a. Centralized E&P Waste Management Facilities.**
 - (1) Submission of Financial Assurance.** Pursuant to Rule 907.d, prior to the Director's approval of a Form 28, Centralized E&P Waste Management Facility Permit, the Operator will provide the Commission with Financial Assurance.

- (2) **Amount of Financial Assurance.** The Operator will provide Financial Assurance in an amount equal to the estimated cost necessary to ensure the proper Remediation, Reclamation, closure, and abandonment of the Centralized E&P Waste Management Facility. The Director may require the Operator to adjust the amount of Financial Assurance it provides to account for inflation pursuant to Rule 707.a.(1).A.
- (3) **Release of Financial Assurance.** Financial Assurance submitted pursuant to this Rule 703.a will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that:
 - A. The Operator has transferred the Centralized E&P Waste Management Facility pursuant to Rule 218;
 - B. The Director has approved final closure and Reclamation of the Centralized E&P Waste Management Facility pursuant to Rule 907.h and the Commission's 1000 Series Rules; or
 - C. The Operator has filed a Form 4 to abandon the permit for the Centralized E&P Waste Management Facility without constructing the facility, and the facility passes an inspection for permit abandonment.

b. Remediation Projects.

- (1) **Submission of Financial Assurance.** In reviewing an Operator's Form 27, Site Investigation and Remediation Workplan, if the Director determines that the Operator's Financial Assurance is inadequate to address the scope of Remediation activities contemplated by the form, the Director may require the Operator to provide Financial Assurance, or additional Financial Assurance, as a condition of approval.
 - A. If an Operator disagrees with the Director's determination, the Operator may file an application for a Financial Assurance hearing before the Commission pursuant to Rule 503.g.(11).
 - B. The Director may conditionally approve the Operator's Form 27, and the Operator may commence Remediation activities, prior to the Commission issuing a final order in such a hearing.
- (2) **Amount of Financial Assurance.** The Operator will provide Financial Assurance in an amount equal to the estimated cost necessary to ensure the proper Remediation, Reclamation, closure, and abandonment of the Remediation project site. The Director may require the Operator to adjust the amount of Financial Assurance it provides to account for inflation pursuant to Rule 707.a.(1).A.
- (3) **Release of Financial Assurance.** Financial Assurance required by this Rule 703.b will be held by the Director until the required Remediation of soil and/or Groundwater impacts is completed pursuant to the approved workplan and Rule 913.h.

c. Seismic Operations.

- (1) **Submission of Financial Assurance.** At the time an Operator submits a Form 20, Permit to Conduct Seismic Operations pursuant to Rule 313, the Operator will file Financial Assurance to ensure the proper Plugging and Abandonment of any shot holes and any necessary surface Reclamation.

- (2) **Amount of Financial Assurance.** The Operator will provide statewide blanket Financial Assurance in the amount of \$25,000, adjusted for inflation pursuant to Rule 707.a.(1).A.
- (3) **Release of Financial Assurance.** The Financial Assurance will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that following conditions have been met:

 - A. All shotholes have been properly Plugged and Abandoned pursuant to Rule 436.e.(4);
 - B. The Reclamation required by Rule 436.h has been completed;
 - C. The Operator has submitted and the Director has approved the Form 20A for all Seismic Operations covered by the Financial Assurance; and
 - D. All complaints received from Surface Owners have been investigated, addressed, and resolved by the Director pursuant to Rule 524.
- d. **Gas Gathering, Gas Processing, and Underground Gas Storage Facilities.**

 - (1) **Submission of Financial Assurance.** At the time an Operator submits a Form 12, Gas Facility Registration, the Operator of a gas gathering, gas processing, or underground gas storage facility will provide Financial Assurance to ensure compliance with the Commission's 900 Series Rules.
 - (2) **Amount of Financial Assurance.**

 - A. The Operator will provide Financial Assurance in the amount of \$100,000 for the Operator's Gas Facility(ies), adjusted for inflation pursuant to Rule 707.a.(1).A, unless the gas gathering or gas processing system meets the criteria of Rule 703.d.(2).B.
 - B. Operators of small systems gathering or processing less than 5 million standard cubic feet per day ("MMSCFD") may provide individual Financial Assurance in the amount of \$5,000, adjusted for inflation pursuant to Rule 707.a.(1).A.
 - C. If the Director determines, based on an Operator's compliance record, the number or severity of Spills or Releases at the Operator's Gas Facilities requiring remediation, and other relevant evidence, that the Operator's Financial Assurance amount for its Gas Gathering, Gas Processing, or Underground Gas Storage Facilities should be increased, the Director will require the Operator to immediately provide additional Financial Assurance. If the Operator disagrees with the Director's determination, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).
 - (3) **Release of Financial Assurance.** Financial Assurance submitted pursuant to this Rule 703.d will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that:

 - A. The Operator has transferred the facility to another Operator pursuant to Rule 218; or
 - B. The Operator has fully decommissioned the facility, and any outstanding Spills, Releases, and Remediation projects have been closed pursuant to the Commission's 900 Series Rules.
- e. **Produced Water Transfer Systems.**

- (1) **Submission of Financial Assurance.** At the time an Operator submits a Form 44, Flowline Report to register a Produced Water Transfer System pursuant to Rule 1101.d.(1), the Operator will provide Financial Assurance to ensure compliance with the Commission's 900 Series Rules.
- (2) **Amount of Financial Assurance.**
 - A. The Operator will provide Financial Assurance in the amount of \$50,000 per facility, adjusted for inflation pursuant to Rule 707.a.(1).A, unless the Produced Water Transfer System meets the criteria of Rule 703.e.(2).B.
 - B. Operators of small systems transferring less than 700 Barrels of water per day may provide individual Financial Assurance in the amount of \$5,000, adjusted for inflation pursuant to Rule 707.a.(1).A.
- (3) **Release of Financial Assurance.** Financial Assurance submitted pursuant to this Rule 703.e will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that:
 - A. The Operator has transferred the Produced Water Transfer System to another Operator pursuant to Rule 218; or
 - B. The Operator has fully decommissioned the Produced Water Transfer System, and any outstanding Spills, Releases, and Remediation projects have been closed pursuant to the Commission's 900 Series Rules.

f. **Commercial Disposal Facilities.**

- (1) **Submission of Financial Assurance.** At the time an Operator submits an application for a new Commercial Disposal Well pursuant to Rule 810.a, the Operator will provide Financial Assurance to ensure compliance with the Commission's 900 Series Rules by all surface facilities and structures appurtenant to the Commercial Disposal Well. This Rule 703.f does not relieve the Operator of its obligation to provide Financial Assurance for the Well itself pursuant to Rule 702.
- (2) **Amount of Financial Assurance.** The Operator will provide \$100,000 in Financial Assurance for each Commercial Disposal Well facility, adjusted for inflation pursuant to Rule 707.a.(1).A.
- (3) **Release of Financial Assurance.** Financial Assurance submitted pursuant to this Rule 703.f will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that:
 - A. The Operator has transferred the Commercial Disposal Well to another Operator pursuant to Rule 218; or
 - B. The Operator has Plugged and Abandoned the Commercial Disposal Well, passed final Reclamation for the Oil and Gas Location and all surface facilities appurtenant to the Well, and has completed any Remediation required by the Commission's 900 Series Rules.

704. SURFACE OWNER PROTECTION BONDS

- a. **When Surface Owner Protection Bonds Are Required.** To protect Surface Owners from unreasonable crop loss or land damage caused by Oil and Gas Operations, if a Surface Owner

is not a party to a lease, Surface Use Agreement, or other relevant agreement with an Operator, the Operator will provide Financial Assurance to the Commission prior to commencing any operations with heavy equipment on that Surface Owner's property.

- (1) **Amount of Financial Assurance.** Operators will provide Financial Assurance of:
 - i. \$4,000 per Well for non-irrigated land;
 - ii. \$10,000 per Well for irrigated land; or
 - iii. \$100,000 as a statewide blanket bond.
 - (2) **State Lands.** If Oil and Gas Operations are conducted on state lands and a bond has been filed with the State Board of Land Commissioners, an Operator need not file a Surface Owner protection bond pursuant to this Rule 704.
- b. Procedures for Claiming Surface Owner Protection Bonds.** A Surface Owner may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) if the Surface Owner believes that crop loss or other damage caused by Oil and Gas Operations subject to this Rule 704 is unreasonable.
- (1) The Surface Owner will bear the burden of proving that it has withstood unreasonable crop loss or land damage.
 - (2) If the Commission finds in favor of the Surface Owner, the Commission may order an Operator to conduct corrective or remedial action, provide a monetary award for unreasonable crop loss or land damage that cannot be Remediated or corrected, or other relief as appropriate. The amount of such a monetary award is not limited to the amount of the Operator's Financial Assurance provided pursuant to this Rule 704.
- c. Release of Financial Assurance.** Financial Assurance provided pursuant to this Rule 704 will be held until:
- (1) For an individual Surface Owner protection bond:
 - A. The Operator transfers the Well subject to the Surface Owner protection bond pursuant to Rule 218;
 - B. The Operator Plugs and Abandons the Well subject to the Surface Owner protection bond, the Well passes final Reclamation, and any necessary Remediation is conducted as demonstrated by closure of any Form 19, Spill/Release Report or Form 27, Site Investigation and Remediation Workplan;
 - C. The Operator files a Form 4 to abandon the permit for the Well subject to the Surface Owner protection bond without constructing the Oil and Gas Location or Spudding the Well, and the Well passes an inspection for permit abandonment; or
 - D. The Operator enters into a Surface Use Agreement, lease, or other relevant agreement with the Surface Owner.
 - (2) For a blanket Surface Owner protection bond:
 - A. The Operator transfers all drilled Wells subject to the Surface Owner protection bond pursuant to Rule 218;

- B. The Operator Plugs and Abandons all drilled Wells subject to the Surface Owner protection bond, all Wells subject to the Surface Owner protection bond pass final Reclamation, and any necessary Remediation is conducted as demonstrated by closure of any Form 19 or Form 27;
- C. The Operator files a Form 4 to abandon the permit for all Wells subject to the Surface Owner protection bond without constructing the Oil and Gas Location(s) or Spudding the Well(s), and the Well(s) pass an inspection for permit abandonment; or
- D. The Operator enters into a Surface Use Agreement, lease, or other relevant agreement with all Surface Owners subject to the Surface Owner protection bond.

705. GENERAL LIABILITY INSURANCE

- a. **Consolidation of Related Operators.** Where a registered Operator owns, holds, or controls 50% or more of one or more other registered Operators, that parent company Operator may fulfill the obligations of this Rule 705 for itself and its subsidiary Operator companies, provided that the policy or policies name both the parent and subsidiary Operator companies and provide coverage in the required amounts for each entity the parent Operator company seeks to cover. Consolidation under this Rule will include all of a parent Operator's subsidiary Operators.
- b. All Operators will maintain general liability insurance coverage for property damage, bodily injury to third parties, and sudden or accidental pollution that requires Remediation, with no exclusion for claims arising from operator-caused seismicity from oil or gas Wells, in the minimum amount of \$5,000,000 per occurrence. The coverage required by this Rule may be secured alone or in combination with an umbrella or excess policy.
- c. All such general liability insurance policies will include the Commission as a "certificate holder" and "scheduled person or organization" so that the Commission may receive advance notice of cancellation.
- d. Operators will demonstrate their compliance with Rule 705.a by providing information about their insurance coverage on their Form 1.
- e. Operators will provide notice of any renewals or changes to their general liability insurance during the previous 12 months on their Form 1B, Annual Registration.
- f. Operators will provide information about their general liability insurance coverage and whether that coverage is sufficient to cover Remediation costs on the Form 19 – Supplemental or Form 27 the Operator files pursuant to Rule 912.b.(6).

706. RELEASE OR CLAIM OF FINANCIAL ASSURANCE

- a. **When Financial Assurance Reverts to Operators.** The Director will release part or all of an Operator's Financial Assurance, including any accrued interest from a Cash Bond, if the Operator submits a Form 3A requesting release of the Financial Assurance, and any of the following conditions have been met:
 - (1) **Full Compliance.** The Director determines that an Operator has fully complied with all of its statutory and regulatory obligations for Plugging and Abandonment, Remediation, and Reclamation of all Oil and Gas Facilities subject to the Operator's control pursuant to the Commission's Rules;
 - (2) **Transfer of Operatorship.** The Director approves a Form 9 – Subsequent pursuant to Rule 218.g.(4) certifying that one or more Buying Operator(s) have filed sufficient

replacement Financial Assurance for all Wells, Oil and Gas Locations, and Oil and Gas Facilities subject to the Operator's control;

- (3) **Other Facilities and Operations.** The Operator meets the requirements for release of Financial Assurance held for a specific category of facility or operation identified in Rule 703 or for release of a Surface Owner protection bond pursuant to Rule 704.c; or
 - (4) **Single Well Financial Assurance for Wells.** The Operator fully Plugs and Abandons and Reclaims a Well that has an associated Single Well Financial Assurance.
 - (5) **Abandonment of Permit without Construction.** The Operator abandons a permit for a Well, Oil and Gas Location, or Oil and Gas Facility without disturbing the surface or otherwise constructing the applicable facility, and files a Form 4, Sundry Notice to formally request abandonment of the permit and a field inspection confirms no disturbance or construction occurred.
- b. **Procedure for Director to Access Financial Assurance.** If an Operator fails to fulfill its statutory and regulatory obligations for Plugging and Abandonment, Remediation, and Reclamation, the Director will suspend the Operator's Form 1 and Form 10, Certificate of Clearance and will file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) to claim the Operator's Financial Assurance.
- (1) **Hearing Procedures.** The Secretary will serve notice of the Director's hearing application on the Operator and, where applicable, any applicable third-party provider of the Financial Assurance pursuant to Rule 504.
 - A. The Operator, third-party provider of Financial Assurance, and any other Affected Person may petition to participate in the hearing pursuant to Rule 507.
 - B. If no petition is filed, the matter may be resolved as an uncontested matter on the Commission's consent agenda pursuant to Rules 508 & 519.
 - C. At hearing, the Commission has discretion to order appropriate relief, including but not limited to permanently revoking the Operator's license to conduct Oil and Gas Operations in Colorado.
 - (2) **Director's Action to Claim Financial Assurance Pursuant to Commission Order.** If the Commission approves the Director's application to claim the Operator's Financial Assurance, the Director will:
 - A. Transfer any Cash Bond to the Oil and Gas Conservation and Environmental Response Fund;
 - B. Call any Surety Bond or Letter of Credit held by a third party for the benefit of the Commission and deposit the called funds in the Oil and Gas Conservation and Environmental Response Fund;
 - C. Foreclose upon any liens or otherwise secured real or physical property held as a form of Financial Assurance and deposit the foreclosed funds in the Oil and Gas Conservation and Environmental Response Fund; and
 - D. Take any other actions necessary to liquidate and transfer any other assets held as Financial Assurance into the Oil and Gas Conservation and Environmental Response Fund.

- c. **Recalcitrant Bond Providers.** If a third-party provider of Financial Assurance fails to comply with the terms of a financial instrument, or with a Commission order calling a Surety Bond, Letter of Credit, or other form of Financial Assurance, the Director may designate that third-party provider to be an unacceptable provider. The Director will maintain a list of all unacceptable Financial Assurance providers on the Commission's website.
 - (1) **Reinstatement of Unacceptable Third-Party Providers.** The Director will not accept any new Financial Assurance that an Operator seeks to provide through an unacceptable provider until the third-party provider applies for a hearing before the Commission pursuant to Rule 503.g.(11) and obtains an order of reinstatement from the Commission.
 - (2) **Suits to Recover Financial Assurance.** The Commission may file suit pursuant to § 34-60-109, C.R.S., to recover Financial Assurance based on a valid Commission order claiming the Financial Assurance pursuant to Rule 706.b.(2).
- d. **Refund of Claimed Financial Assurance.** If any portion of an Operator's Financial Assurance that is claimed pursuant to Rule 706.b is not needed to cover the costs of Plugging and Abandonment, Reclamation, and Remediation of an Orphaned Site, the Director will refund the remainder of the Financial Assurance to the entity that provided the Financial Assurance. The Director may claim an overhead recovery fee of 10% of the funds as direct costs charged against any Financial Assurance that would otherwise be refunded to the entity that provided the Financial Assurance.
- e. **Procedure for Operator to Pursue Release of Financial Assurance.** If the Director or the Commission fails to timely release all or part of an Operator's Financial Assurance after the Operator has satisfied its requirements pursuant to Rule 706.a, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).

707. REVIEW OF FINANCIAL ASSURANCE

- a. **Director's Review of Financial Assurance.**
 - (1) **Annual Review.** Beginning July 1, 2023, the Director will conduct a review of every registered Operator's Financial Assurance at least once every fiscal year to ensure that the Operator is in compliance with its approved Financial Assurance Plan and that the Operator continues to satisfy the eligibility requirements for the Option under which its Financial Assurance Plan was approved. The Director will document the results in writing of every annual review, and make the results available to the public on the Commission's website.
 - A. The Director's review may include whether the Operator's Financial Assurance should be updated to reflect inflation.
 - B. The Director's review may include the Operator's insurance coverage and whether any Financial Assurance the Operator has provided is sufficient to address the Operator's Remediation obligations under the Commission's 900 Series Rules.
 - C. The Director's review will include the verification of the existence of Financial Assurance instruments, confirmation that required restrictions are applied, verification of balances, and confirmation that the Commission is authorized to access the funds.
 - D. If the Director determines that an Operator has not provided adequate Financial Assurance pursuant to the Commission's 700 Series Rules or is not in compliance with the Operator's approved Financial Assurance Plan, the Director will notify the Operator in writing and provide a reasonable timeframe for the Operator to cure the deficiency.

The Director may also require the Operator to file a revised Financial Assurance Plan pursuant to Rule 702.b.(4).

- E. If the Operator disagrees with the Director's determination, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).
- (2) **Discretionary Review.** If the Director has reasonable cause to believe that the Commission may become burdened with the costs of fulfilling an Operator's Plugging and Abandonment, Reclamation, or Remediation obligations under the Act or the Commission's Rules because the Operator has demonstrated a pattern of non-compliance with the Commission's Rules or other unique circumstances, the Director may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) to obtain the Commission's approval of a plan for the Operator to provide additional Financial Assurance beyond what would otherwise be required under the Commission's 700 Series Rules.
- b. **Commission's Review of Financial Assurance.**
- (1) **Regular Review.** If an Operator's Commission-approved Financial Assurance Plan requires regularly scheduled Commission review during a hearing, the Operator will seek a Financial Assurance hearing pursuant to Rule 503.g.(11) in accordance with the terms of the Order approving the Financial Assurance Plan.
 - (2) **Commission's Own Motion.**
 - A. At any time, the Commission may commence a Financial Assurance hearing for any Operator on its own motion pursuant to Rule 503.a.
- B. Procedure for Commission Hearing.**
- i. **Notice.** If the Commission commences a hearing on its own motion pursuant to this Rule 707.b.(2), the Secretary will provide notice to the Operator pursuant to Rule 504.b.(10).B.
 - ii. **Evidence.** The Operator will submit all information requested by the Commission into the evidentiary record for the hearing pursuant to Rule 503.g.(11), including but not limited to information regarding the status and production of its Wells, its present Financial Assurance, and relevant metrics of its financial status.
 - iii. **Financial Assurance Plan.** The Commission may require an Operator to submit a Financial Assurance Plan pursuant to Rule 702.b prior to the Financial Assurance hearing.
- (3) **Commission Order.** The Commission's final order regarding the Operator's Financial Assurance may require an Operator to provide additional Financial Assurance beyond what is ordinarily required by the Commission's Rules based on the unique circumstances of the Operator, if those circumstances demonstrate a risk of the Operator being unable to comply with its obligations to Plug and Abandon Wells, perform proper Reclamation, or perform proper Remediation.

**UNDERGROUND INJECTION FOR DISPOSAL AND ENHANCED RECOVERY PROJECTS
800 SERIES**

810. COMMERCIAL DISPOSAL WELLS AND FACILITIES

- a. Applications for new Commercial Disposal Wells will:
- (1) Satisfy the requirements of Rules 803, 804, 805, 806, 807, & 808.
 - (2) Meet the Financial Assurance requirements of Rules 702 & 703.f.

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**ENVIRONMENTAL IMPACT PREVENTION
900 SERIES**

907. CENTRALIZED E&P WASTE MANAGEMENT FACILITIES

- d. **Financial Assurance.** The Operator of a Centralized E&P Waste Management Facility will submit for the Director's approval such Financial Assurance as required by Rule 703.a prior to the Director approving the Form 28.

- h. **Closure.**
 - (1) **Preliminary Closure Plan.** A general preliminary plan for closure will be submitted with the Form 28. The preliminary closure plan will include, but not be limited to:
 - A. A general plan for closure and Reclamation of the entire facility, including a description of the activities required to decommission and remove all equipment, close and reclaim Pits, dispose of or treat residual waste, collect samples as needed to verify compliance with soil and Groundwater standards, implement post-closure monitoring, and complete other Remediation, as required.
 - B. An estimate of the cost to close and reclaim the entire facility and to conduct post-closure monitoring. Cost estimates will be subject to review by the Director to verify that the Financial Assurance provided pursuant to Rules 907.d & 703.a is appropriate.
 - (2) **Final Closure Plan.** The Operator will submit a detailed Form 27 at least 60 days prior to closure for approval or denial by the Director. The workplan will include, but not be limited to, a description of the activities required to decommission and remove all equipment, close and reclaim Pits, dispose of or treat residual waste, collect samples as needed to verify compliance with soil and Groundwater standards, implement post-closure monitoring, and complete other Remediation and Reclamation, as required.

912. SPILLS AND RELEASES

b. Reporting Spills or Releases of E&P Waste, Gas, or Produced Fluids.

- (6) No later than 90 days after a Spill or Release is discovered, the Operator will have submitted, and obtained the Director's approval of either:
 - A. A Form 19 – Supplemental requesting closure pursuant to Rule 913.h and supported by adequate documentation to demonstrate that the Spill or Release has been fully cleaned up and complies with Table 915-1; or
 - B. A Form 27 if any of the criteria listed in Rules 912.b.(6).B.i–iii apply. If Remediation will continue under an approved Form 27, the Operator will also submit a Form 19 – Supplemental which requests closure of the Spill or Release and includes the Remediation project number assigned by the Director.
 - i. A Form 27 is required by the Commission's Rules;
 - ii. Cleanup or Remediation will continue for longer than 90 days after the Spill or Release was discovered; or
 - iii. The Director requests a Form 27.

- C. On the Form 19 – Supplemental or Form 27 submitted pursuant to this Rule 912.b.(6), the Operator will provide information about general liability insurance pursuant to Rule 705.

913. SITE INVESTIGATION, REMEDIATION, AND CLOSURE

- e. **Reporting Schedule.** After initial approval of a Form 27, the Operator will provide quarterly update reports in a Supplemental Form 27 to document progress of site investigation and Remediation, unless an alternative reporting schedule has been requested by the Operator and approved by the Director. The Director may request a more frequent reporting schedule based on site-specific conditions.
 - (1) Operators may not change the reporting schedule without the Director's approval.
 - (2) By April 15, 2021, Operators of existing Remediation projects approved prior to January 15, 2021 will submit a Supplemental Form 27 with a detailed project summary and status.
 - (3) For existing Remediation projects approved prior to January 15, 2021, the Operator will adopt a quarterly reporting schedule unless a more frequent or specific reporting schedule was already approved by the Director.
 - (4) At least one of the Operator's quarterly reports each calendar year will address the adequacy of general liability insurance held by the Operator pursuant to Rule 705, or Financial Assurance otherwise provided by the Operator, to fully address the anticipated costs of Remediation.