

**PERMITTING PROCESS
300 SERIES**

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

- a. Approval.** All operations governed by any regulation in this Series require written approval of the Commission, or Director where applicable. The Commission or Director, where applicable, will approve operations only if they protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources, and protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from Oil and Gas Operations. Operators will obtain the Commission's or Director's, where applicable, approval through the procedures provided in this and such other applicable Commission Rules. The Commission, or Director, where applicable, may require any conditions of approval that are determined to be necessary and reasonable to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources, or to protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from Oil and Gas Operations.
- b. Denial.** The Commission may deny an Oil and Gas Development Plan, and the Commission or Director may deny Oil and Gas Operations if it does not comply with the Commission's Rules or the Act.
- c. Changes to Approved Oil and Gas Development Plans.**

 - (1) Operators will file any proposed change to an approved Oil and Gas Development Plan with the Director in writing through a Form 4, Sundry Notice. The Form 4 will be posted to the Commission's website at least 14 days prior to approval or denial of the requested change.
 - (2) The Director will determine what applications, forms, and information are required for the review and approval of the proposed change, and whether:

 - A. The proposed change is significant and requires Commission approval;
 - B. The proposed change requires consultation with the Colorado Department of Public Health and Environment ("CDPHE") or Colorado Division of Parks and Wildlife ("CPW"); or
 - C. The proposed change will not alter the basis upon which the Oil and Gas Development Plan is approved and can be administratively approved by the Director.
 - (3) The Operator will not begin work until the Director or Commission provides written approval.
 - (4) The Director or Commission will only approve changes that comply with the Commission's Rules.
 - (5) Notice of a Director-approved change to an Oil and Gas Development Plan will be posted to the Commission's website.
- d. Filing Fees.** Operators will pay filing fees at the time of applying for a Form 2A, Oil and Gas Location Assessment; Form 2, Application for Permit-to-Drill; Drilling and Spacing Unit; Oil and Gas Development Plan; or Comprehensive Area Plan ("CAP") (see Appendix III). Wells drilled for stratigraphic information only will be exempt from paying the filing fee.

- e. The Director or Commission may request any information necessary and reasonable to make a final determination of approval or denial on any permit application before the Commission. In such information requests, the Director or Commission will provide the reasoning for the request and a reasonable timeframe for the applicant to provide the information.
- f. **Coordination with Local Governments and Federal Agencies.**
 - (1) **Purpose.** The Commission, Local Governments, and federal surface management agencies all share authority to require permits for the surface impacts of Oil and Gas Operations. Recognizing that each permitting authority brings its own, unique expertise in reviewing a permit, the Commission supports creating coordinated, efficient processes among the permitting authorities.
 - (2) **Concurrent Permitting.** Where possible, the Commission prefers Operators to follow the concurrent permit review process pursuant to Rule 303.a.(6).A to allow each permitting authority to coordinate sharing its unique expertise and standards.
 - (3) **Pre-Application Consultation.** Prior to an Operator submitting an Oil and Gas Development Plan or Form 2A to the Commission, at the request of the Relevant Local Government or federal agency, the Director will participate in a Formal Consultation Process with the Relevant Local Government or federal agency and the Operator to discuss Oil and Gas Location siting, alternative location analysis, Best Management Practices, conditions of approval, anticipated milestones and events in the state and federal or local permitting processes, opportunities for collaboration, and other related topics regarding the Operator's planned development within the Relevant Local Government's or federal agency's jurisdiction.
 - (4) **Sequential Permitting.** An Operator may pursue a permit from the federal government or a Relevant Local Government before applying for an Oil and Gas Development Plan pursuant to Rule 303.
 - A. If the Operator chooses to seek a permit from the federal government or a Relevant Local Government before applying for an Oil and Gas Development Plan, during the course of the federal or Local Government permit review process, for any proposed location that meets one or more of the criteria in Rule 304.b.(2).B the Operator may submit an alternative location analysis to the Director that meets the criteria of Rule 304.b.(2).C.
 - B. If the Operator provides the Director with an alternative location analysis pursuant to Rule 301.f.(4).A, the Director will participate in a Formal Consultation Process with the Operator and the Relevant Local Government or federal agency about the proposed alternative locations prior to the Operator submitting a permit application to the Commission.
 - C. To promote the resolution of issues to the extent possible, a Relevant Local Government or federal agency may request that the Director participate as a referral agency in a Formal Consultation Process about proposed alternative locations for any location that meets the criteria of Rule 304.b.(2).B. If the Director receives such a request, the Operator will provide the Director with an alternative location analysis that meets the criteria of Rule 304.b.(2).C that may be used as a basis for the Formal Consultation Process. If the Director receives such a request, the Director will use best efforts to identify any potential conflicts, differences, or concerns that may exist regarding the proposed location(s) and the Commission's Rules.

302. LOCAL GOVERNMENTS

- a. Nothing in the Commission's Rules constrains the legal authority conferred to Local Governments by §§ 24-65.1-101 *et seq.*, 29-20-104, 30-15-401, C.R.S., or any other statute, to regulate surface Oil and Gas Operations in a manner that is more protective or stricter than the Commission's Rules.
- b. **Local Government Siting Information.** With their Oil and Gas Development Plan, or, if applicable, with their Form 2A or Drilling and Spacing Unit application, Operators will submit to the Director certification that:
 - (1) The Relevant Local Government does not regulate the siting of Oil and Gas Locations;
 - (2) The Relevant Local Government regulates the siting of Oil and Gas Locations, and has denied the siting of the proposed Oil and Gas Location;
 - (3) The Relevant Local Government regulates the siting of Oil and Gas Locations, and the proposed Oil and Gas Location does not meet any of the criteria listed in Rule 304.b.(2).B; or
 - (4) The Relevant Local Government regulates the siting of Oil and Gas Locations, and the proposed Oil and Gas Location meets one or more of the criteria listed in Rule 304.b.(2).B.
- c. **Director's Review of Local Government Siting Information.**
 - (1) For proposed Oil and Gas Locations listed in Rule 302.b.(1), the Director will conduct a siting review pursuant to the Commission's 300 Series Rules.
 - (2) For proposed Oil and Gas Locations listed in Rule 302.b.(2), the Commission will not approve the proposed Oil and Gas Location without a hearing before the Commission, rather than an Administrative Law Judge or Hearing Officer.
 - (3) For proposed Oil and Gas Locations listed in Rule 302.b.(3), the Director will defer to the Relevant Local Government's siting disposition.
 - (4) For proposed Oil and Gas Locations listed in Rule 302.b.(4), the Operator will submit an alternative location analysis pursuant to Rule 304.b.(2).
- d. With their Oil and Gas Development Plan, or, if applicable, with their Form 2A, Operators will state whether the proposed Oil and Gas Location is subject to the requirements of § 24-65.1-108, C.R.S., because it is located in an area designated as one of state interest.
- e. **Notice to Relevant and Proximate Local Governments.** An Operator will notify any Relevant and Proximate Local Governments that it plans to submit an Oil and Gas Development Plan no less than 30 days prior to submitting an Oil and Gas Development Plan. The notice will comply with the procedural and substantive requirements of Rules 303.e.(2) & (3).
- f. **Local Government Waiving Authority.**
 - (1) At any time, a Local Government may, by providing written notice to the Director on a Form 29, Local Government Information, and any relevant Operators:
 - A. Waive its right to receive notice under any or all of the Commission's Rules; or
 - B. Certify that it chooses not to regulate the siting of Oil and Gas Locations.

- (2) The Commission will maintain a list of Local Governments that have certified to the Director that they have chosen not to regulate the siting of Oil and Gas Locations, or receive any category of notice otherwise required by the Commission's Rules. This list will be posted on the Commission's website.
- (3) A Local Government may withdraw a waiver or certification at any time by providing written notice to an Operator and the Director on a Form 29. Upon receiving such notice, the Director will immediately remove the Local Government from the Rule 302.f.(2) list on the Commission's website.

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

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

303. PROCEDURAL REQUIREMENTS FOR OIL AND GAS DEVELOPMENT PLANS

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

- (1) An application with the Hearings Unit for a hearing on the proposed Oil and Gas Development Plan, pursuant to Rule 503.g.(1). If the Oil and Gas Development Plan includes lands to be spaced, the Oil and Gas Development Plan application will include an application for and request for hearing on the proposed Drilling and Spacing Unit(s) pursuant to Rules 305 & 503.g.(2). For at least one portion of a mineral tract within the proposed Oil and Gas Development Plan, the applicant will provide documentation as described in Rule 305.a.(2).L, showing the applicant's status as an Owner.
- (2) A Form 2A that meets all requirements of Rule 304 for each proposed Oil and Gas Location.
- (3) Payment of the full filing fee required by Rule 301.d.
- (4) Any other relevant information that the Director determines is necessary and reasonable to determine whether the proposed operation meets the Commission's Rules and protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources. The Director will provide the Operator with the reason for the request in writing.

(5) Cumulative Impacts Data Evaluation Repository.

- A. Purpose.** This Rule 303.a.(5) is intended to provide data for the Commission's cumulative impacts data evaluation repository. The Commission intends to use the data, in cooperation with CDPHE and other partners, to undertake basin-wide, statewide, and other studies to evaluate and address cumulative impacts to relevant resources at appropriate scales pursuant to Rules 304.c.(19) or 904.
- B. Resource Impacts.** The Operator will submit a Form 2B, Cumulative Impacts Data Identification that provides quantitative and qualitative data to evaluate incremental adverse and beneficial contributions to cumulative impacts caused by Oil and Gas Operations associated with the proposed Oil and Gas Development Plan, including any measures the Operator will take to avoid, minimize, or mitigate any adverse impacts:
- i. Air Resources.** A quantitative evaluation of the incremental increase in the pollutants listed below, estimated for the entire proposed Oil and Gas Development Plan. The emissions estimates will include both stationary and mobile sources of emissions during all pre-production activities, and both stationary and mobile sources of emissions for the first year of production based on all proposed wells and equipment.
 - aa.** Oxides of nitrogen (NO_x);
 - bb.** Carbon monoxide (CO);
 - cc.** Volatile Organic Compounds (VOCs);
 - dd.** Methane (CH₄);
 - ee.** Ethane (C₂H₆);
 - ff.** Carbon dioxide (CO₂); and
 - gg.** Nitrous oxide (N₂O).
 - ii. Public Health.** An evaluation of incremental adverse impacts to public health due to Oil and Gas Operations associated with the proposed Oil and Gas Development Plan, including:
 - aa.** A quantitative evaluation of the incremental increase in total hazardous air pollutant emissions estimated for the entire proposed Oil and Gas Development Plan. The emissions estimates will include both stationary and mobile sources of emissions during all pre-production activities, and both stationary and mobile sources of emissions for the first year of production based on all proposed wells and equipment.
 - bb.** A quantitative evaluation of the incremental increase in specific hazardous air pollutant emissions with known health impacts, estimated for the entire proposed Oil and Gas Development Plan. The emissions estimates will include both stationary and mobile sources of emissions during all pre-production activities, and both stationary and mobile sources of emissions for the first year of production based on all proposed wells and equipment:

1. Benzene;
 2. Toluene;
 3. Ethylbenzene;
 4. Xylenes;
 5. n-Hexane;
 6. 2,2,4-Trimethylpentane (2,2,4-TMP);
 7. Hydrogen sulfide (H₂S);
 8. Formaldehyde; and
 9. Methanol.
- cc.** A qualitative evaluation of any potential acute or chronic, short- or long-term incremental impacts to public health as a result of such emissions.
- dd.** Whether the proposed Oil and Gas Development Plan includes any proposed Oil and Gas Locations within a Disproportionately Impacted Community.

iii. Water Resources.

- aa.** For any proposed Oil and Gas Development Plan that includes proposed Oil and Gas Locations that will be listed as a sensitive area for water resources, or are within 2,640 feet of a surface Water of the State, the total planned on-location storage volume (measured in Barrels (bbls)) of:
1. Oil;
 2. Condensate;
 3. Produced water; and
 4. Other volumes of stored hydrocarbons, Chemicals, or E&P Waste Fluids.
- bb.** An evaluation and identification of potential contaminant migration pathways and likely distances from the proposed Oil and Gas Locations to the nearest downstream riparian corridors, wetlands, and surface Waters of the State. If the Operator identifies any such contaminant migration pathways, the Operator will provide a qualitative evaluation of the baseline conditions in the riparian corridor, wetland, or surface Water of the State.
- cc.** A qualitative evaluation of potential impact to any Public Water System intake.
- dd.** A qualitative evaluation of measures the Operator proposes to take to reduce water use, including reusing and recycling produced water.

ee. A quantitative evaluation of the anticipated volume of all surface water and Groundwater to be used, including the percentage of the total volume that is anticipated to be reused or recycled water, consistent with Rules 304.c.(18).A & C.

iv. Terrestrial and Aquatic Wildlife Resources and Ecosystems. A quantitative or, where quantitative information is not reasonably available, a qualitative evaluation of potential impacts to Wildlife Resources as a result of Oil and Gas Operations associated with the proposed Oil and Gas Development Plan, including:

aa. List of High Priority Habitats within 1 mile; and

bb. Total acreage of new or expanded surface disturbance associated with the proposed Oil and Gas Development Plan, including:

1. A breakdown (by acreage) of the types of current land use;
2. The number of acres of new or expanded surface disturbance within High Priority Habitat.

v. Soil Resources.

aa. A quantitative evaluation of incremental adverse impacts to topsoil as a result of surface disturbance associated with the proposed Oil and Gas Development Plan; and

bb. A qualitative evaluation of incremental adverse impacts on ecosystems, including any vegetative communities, as a result of Oil and Gas Operations associated with the proposed Oil and Gas Development Plan.

vi. Public Welfare. A qualitative or quantitative evaluation of incremental adverse impacts to public welfare as a result of Oil and Gas Operations associated with the proposed Oil and Gas Development Plan, that addresses each of the following potential sources of impacts to public welfare, over both a short-term and long-term timeframe:

aa. Noise;

bb. Light;

cc. Odor;

dd. Dust; and

ee. Recreation and scenic values.

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

i. The total number of active, permitted, and proposed Oil and Gas Locations within a 1 mile radius of each of the proposed Oil and Gas Locations, including those permitted by the Relevant Local Government, even if a permit application has not yet been submitted to the Commission for the same location.

- ii. The cumulative total of the acreage that is currently disturbed or is planned to be disturbed to construct the active and proposed Oil and Gas Locations associated with the Oil and Gas Development Plan within a 1 mile radius of each of the proposed Oil and Gas Locations, and the source(s) used to calculate the total acreage, which may include:
 - aa. Any relevant field observation or measurements; or
 - bb. The Commission's electronic location files.
 - iii. The total number of oil and gas Wells within a 1 mile radius of each of the proposed Oil and Gas Locations that are:
 - aa. Active;
 - bb. Permitted but not drilled;
 - cc. Proposed; and
 - dd. Plugged and Abandoned.
 - iv. The total volume of produced hydrocarbon and produced water storage that exists and is proposed at the active and proposed Oil and Gas Locations associated with the Oil and Gas Development Plan within a 1 mile radius of each of the proposed Oil and Gas Locations, and the sources used to calculate the storage volumes.
- D. Other Industrial Impacts.** On the Form 2B, the Operator will identify existing industrial facilities within a 1 mile radius of each of the proposed Oil and Gas Locations associated with the proposed Oil and Gas Development Plan, including:
- i. A map or aerial photo, if necessary, showing the proposed Oil and Gas Location(s) and the industrial facilities; and
 - ii. A general description of the use or operation of the industrial facilities.

(6) Permitting Coordination Notifications.

- A.** If an Operator is concurrently seeking a permit from the Commission and a federal agency or a Relevant Local Government for one or more locations within the proposed Oil and Gas Development Plan, the Operator may engage the Director in the federal agency or Relevant Local Government process. The Relevant Local Government or federal agency may also request that the Director engage in the Relevant Local Government process or federal agency process. If the Operator, Relevant Local Government, or federal agency requests the Director's engagement, the Operator will:
 - i. Notify the Director that it is concurrently seeking a permit from the Relevant Local Government or federal agency permitting process on the Form 2A at the time the Operator submits the proposed Oil and Gas Development Plan;
 - ii. Identify any potential conflicts or differences between agency standards for each of the respective permitting authorities on the Form 2A; and
 - iii. Promptly notify the Director in writing of subsequent milestones and events in the Local Government or federal agency permitting process, including but not limited to:

- aa.** Submission of documents;
- bb.** On-site inspections;
- cc.** Public comment deadlines;
- dd.** Hearings and public meetings; or
- ee.** Issuance of final decisions.

B. If an Operator has already obtained a permit from a federal agency or a Relevant Local Government for one or more locations within the proposed Oil and Gas Development Plan, the Operator will submit the federal agency's or Relevant Local Government's final decision documents approving the siting and any related surface disturbance as an attachment to the Form 2A for that location.

- i.** If a Relevant Local Government has already approved the siting of one or more Oil and Gas Locations proposed as part of an Oil and Gas Development Plan, and the Director determines that it will recommend that the Commission deny the proposed Oil and Gas Development Plan based on an alternative location analysis process pursuant to Rule 304.b.(2), the Director will notify the Relevant Local Government and the Operator prior to issuing a Recommendation pursuant to Rule 306.
- ii.** For a proposed Oil and Gas Location on federal surface or mineral estate for which the relevant federal agency has already approved one or more Application(s) for Permit to Drill, the Operator will submit any environmental analysis or analyses conducted for the Application(s) for Permit to Drill pursuant to the National Environmental Policy Act.

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

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

b. Completeness Determination. After the Operator certifies pursuant to Rule 303.a.(7) that all required components of the Oil and Gas Development Plan have been submitted, the Director will use best efforts to review the application materials within 30 days to determine if they are complete.

(1) If the proposed Oil and Gas Development Plan is complete, the Director will approve the Form 2C and issue a completeness determination to the Operator via electronic mail.

(2) A completeness determination does not constitute approval or denial of an Oil and Gas Development Plan, nor does it convey any rights to conduct any surface-disturbing activities.

(3) At any time, before or after the Director makes a completeness determination, the Director or the Commission may request any relevant information necessary and reasonable to

make a final determination of approval or denial on an Oil and Gas Development Plan. The Operator will provide any requested information before the Commission makes a final decision to approve or deny the Oil and Gas Development Plan. The Director will provide the Operator with the reason for the request in writing.

- (4) If the Director determines that an application is incomplete, the Director will notify the Operator in writing of any such inadequacies. The Operator will have 90 days from the date that it was contacted to correct or provide requested information, otherwise the Director will deny the Form 2C, and all components of the application will be considered withdrawn and the Oil and Gas Development Plan filing fee will not be refunded.
- (5) The Director will submit the completeness determination to the Hearings Unit, where it will be part of the record before the Commission on the Oil and Gas Development Plan application.

c. Revisions to an Oil and Gas Development Plan Application.

- (1) At any time prior to the Director making a completeness determination, the Operator may request changes to its Oil and Gas Development Plan or provide additional or different information by contacting the Director.
- (2) After the Director makes a completeness determination, the Operator may only make material changes to its Oil and Gas Development Plan application with the Director's approval, which may require re-noticing the application pursuant to Rules 303.e and 503.g.(1), and reopening the public review and consultation period pursuant to Rule 303.d.

d. Public Review and Consultation.

- (1) **Public Comment Period.** When the Director makes a completeness determination by approving a Form 2C, the Oil and Gas Development Plan application components, exemptions granted pursuant to Rule 304.d, and supporting materials will be posted to the Commission's website. The website posting will provide:
 - A. The date by which public comments must be received to be considered, which is:
 - i. 45 days from the date the Oil and Gas Development Plan was posted if the Oil and Gas Development Plan includes any proposed Oil and Gas Locations within 2,000 feet of a Residential Building Unit, High Occupancy Building Unit, or School Facility within a Disproportionately Impacted Community; and
 - ii. 30 days from the date the Oil and Gas Development Plan was posted for all other Oil and Gas Development Plans; and
 - B. The mechanism for the public to provide comments.
- (2) **Notification for Consultation.** At the same time the Director posts materials to the Commission's website pursuant to Rule 303.d.(1), the Director will provide electronic notice of such posting to:
 - A. The Relevant Local Government(s);
 - B. All Proximate Local Government(s);
 - C. CPW;

- D. CDPHE, if consultation will occur pursuant to Rule 309.f; and
 - E. Public Water System administrators, if consultation will occur pursuant to Rule 309.g.
- (3) **Confidentiality.** If the Operator designates any portion of its Oil and Gas Development Plan application as “confidential” pursuant to Rule 223, then the Director will post only the redacted version when the Oil and Gas Development Plan application is posted.
- e. **Notice.**
- (1) **Who Receives Notice.** The Operator will provide notice of the completeness determination within 7 days to:
- A. All Owners of minerals to be developed by the Oil and Gas Development Plan except that no notice is required for minerals already subject to a federal Unit Agreement pursuant to 43 C.F.R. § 3180.
 - B. All Surface Owners, Building Unit owners, and residents, including tenants of both residential and commercial properties, within 2,000 feet of any Working Pad Surface included in the Oil and Gas Development Plan. Notice to tenants may be accomplished by sending the notice to the residences addressed to “Current Resident.”
 - C. The Colorado State Land Board (if a mineral owner).
 - D. The U.S. Bureau of Land Management (if any federal entity is mineral owner).
 - E. The Southern Ute Indian Tribe (for applications involving minerals within the exterior boundary of the Tribe’s reservation that are subject to the Commission’s jurisdiction pursuant to Rule 201.d.(2)).
 - F. All Schools, Child Care Centers, and School Governing Bodies pursuant to Rule 309.d.
 - G. Police, fire departments, emergency service agencies, and first responder agencies responsible for ensuring public safety in all areas within 2,000 feet of any Working Pad Surface included in the Oil and Gas Development Plan.
 - H. The administrator of any Public Water System that operates:
 - i. A surface water Public Water System intake that is 15 stream miles or less downstream from the proposed Working Pad Surface;
 - ii. A groundwater under the direct influence of surface water (“GUDI”) Public Water System supply well within 2,640 feet of the proposed Working Pad Surface; and
 - iii. A Public Water System supply well completed in a Type III Aquifer within 2,640 feet of the proposed Working Pad Surface.
- (2) **Substance of Notice.** Notice provided by the Operator pursuant to this section will include:
- A. An introductory letter including:
 - i. The Operator’s contact information including its electronic mail address, phone number, and physical address(es) to which the public may direct questions and comments;

- ii. The contact information for the Relevant Local Government;
 - iii. The Commission's website address and main telephone number;
 - iv. The location of all proposed Oil and Gas Locations; and
 - v. The anticipated date that each phase of operations will commence (by month and year).
- B.** A description of the proposed Oil and Gas Development Plan, including:
- i. How many Wells and Locations are proposed;
 - ii. The proposed construction schedule by quarter and year;
 - iii. A description of each operational phase of development and what to expect during each phase;
 - iv. Proposed haul routes and traffic volume associated with each phase of operations; and
 - v. A description of any variances requested pursuant to Rule 502.
- C.** The Commission's information sheet about the procedural steps involved with the Director's and Commission's review of Oil and Gas Development Plans;
- D.** The Commission's information sheet about the Commission's public comment process and the relevant deadlines;
- E.** The Commission's information sheet about Hydraulic Fracturing Treatments, unless Hydraulic Fracturing Treatments will not be utilized at any Well within the proposed Oil and Gas Development Plan;
- F.** Other information that the Director identifies in the completeness determination as necessary to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources;
- G.** The Commission's information sheet about how the public may view the status of the proposed Oil and Gas Development Plan application on the Commission's website; and
- H.** Information on how the public may learn more details about and ask questions about the Oil and Gas Development Plan prior to the closure of the public comment period.
- I.** All written information provided pursuant to Rule 303.e.(2) will also be provided in all languages spoken by 5% or more of the population in all census block groups within 2,000 feet of each proposed Oil and Gas Location within the Oil and Gas Development Plan.
- (3) Procedure for Providing Notice.** Notice will be delivered by one of the following mechanisms:
- A.** Hand delivery, with confirmation of receipt;
 - B.** Certified mail, return-receipt requested;

- C. Electronic mail, with electronic receipt confirmation; or
- D. By other delivery service with receipt confirmation.
- f. **Publication of Comments.** The Director will post public comments on the Commission’s website according to applicable guidance.
- g. **Extension of Comment Period.** The Director may extend or reopen the comment period for up to an additional 30 days for a proposed Oil and Gas Development Plan and 45 days for a proposed CAP if the Director determines an extension or reopening is reasonable in order to obtain public input.
- h. **Drilling and Spacing Unit Applications.** When an Oil and Gas Development Plan includes an application for a new Drilling and Spacing Unit or to amend an existing Drilling and Spacing Unit, the Drilling and Spacing Unit application will be noticed and subject to the petition process set forth in Rules 504.b.(2) & 507.

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

- a. **Submitting Form 2A.** Operators will submit a completed Form 2A, Oil and Gas Location Assessment as part of their Oil and Gas Development Plan application, as required by Rule 303.a.(2). Operators will submit and obtain approval of a Form 2A prior to:
 - (1) Surface disturbance at a site previously undisturbed by Oil and Gas Operations;
 - (2) Surface disturbance for purposes of expanding an existing Working Pad Surface or Oil and Gas Location; or
 - (3) Any significant change to the design and operation of an Oil and Gas Location, including but not limited to the addition of a Well or a Pit, except an Emergency Pit or a lined Plugging Pit. The Director will determine if a Form 2A is required for significant changes at an existing Oil and Gas Location made in response to new requirements or regulations from other state or federal agencies or the Relevant Local Government.
- 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.
 - (1) **Local Government Siting Information.** The Operator will comply with the certification requirements of Rule 302.b.
 - (2) **Alternative Location Analysis.**
 - A. **Applicability.** This Rule 304.b.(2) applies to any proposed Oil and Gas Location:
 - i. That meets any of the criteria listed in Rule 304.b.(2).B, unless the Director determines in the completeness determination that an alternative location analysis is not necessary to protect and minimize adverse impacts to public health, safety, welfare, the environment, or wildlife resources. The Director may not waive the alternative location analysis requirement for any Oil and Gas Location that meets the criteria listed in Rule 304.b.(2).B.i–iii.
 - ii. For which the Director or Commission determines that an alternative location analysis is necessary to evaluate whether the proposed Oil and Gas Location reasonably protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources.

iii. Within the exterior boundaries of the Southern Ute Indian Reservation and subject to the Commission's jurisdiction pursuant to Rule 201.d.(2), if the Southern Ute Indian Tribe objects to the proposed Oil and Gas Location, or requests an alternative location analysis.

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

- i. The proposed Working Pad Surface is within 2,000 feet of 1 or more Residential Building Units or High Occupancy Building Units;
- ii. The proposed Working Pad Surface is less than 2,000 feet from a School Facility or Child Care Center;
- iii. The proposed Working Pad Surface is within 1,500 feet of a Designated Outside Activity Area;
- iv. The proposed Working Pad Surface is less than 2,000 feet of a municipal or county boundary, and the Proximate Local Government objects to the location or requests an alternative location analysis;
- v. The proposed Working Pad Surface is within a Floodplain;
- vi. Unless waived by the applicable Public Water System(s), the proposed Oil and Gas Location is within:
 - aa. A surface water supply area as defined in Rule 411.a.(1); or
 - bb. Within 2,640 feet of a Public Water System supply well that is completed in a Type III Aquifer or is a groundwater under the direct influence of surface water well as defined in Rule 411.b.(1);
- vii. The proposed Oil and Gas Location is within the boundaries of, or is immediately upgradient from, a mapped, visible, or field-verified wetland or riparian corridor;
- viii. The proposed Oil and Gas Location is within High Priority Habitat and the Operator did not obtain a waiver from CPW through a pre-application consultation;
- 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
- x. The proposed Working Pad Surface is within 2,000 feet of a Residential Building Unit, High Occupancy Building Unit, or School Facility located within a Disproportionately Impacted Community.

C. Contents of an Alternative Location Analysis. If an alternative location analysis is required, the Operator will prepare a narrative analysis that identifies all potential alternate locations from which the targeted minerals can be accessed that may be considered for siting of the Oil and Gas Location. Operators will also submit the following information:

- i. One or more maps or recent aerial images showing:
 - aa. The proposed area of mineral development;

- bb.** The Operator's proposed Oil and Gas Location;
 - cc.** All technically feasible alternative locations;
 - dd.** All proximal existing and permitted Oil and Gas Locations;
 - ee.** All relevant jurisdictional boundaries;
 - ff.** All Disproportionately Impacted Communities within 2,000 feet of each Oil and Gas Location analyzed in the alternative location analysis;
 - gg.** A reference coordinate (latitude/longitude); and
 - hh.** All Rule 304.b.(2).B criteria met by the proposed location and any alternative location(s) shown.
- ii.** For each alternative location evaluated, a table showing all information required by Rules 304.b.(3).A & B.
 - iii.** A data table for the proposed Oil and Gas Location and each alternative location, with all measurements made from each proposed Working Pad Surface, that lists the following information:
 - aa.** All Rule 304.b.(2).B criteria met.
 - bb.** For proposed Oil and Gas Locations within or within 2,000 feet of a Disproportionately Impacted Community:
 - 1.** The distance to the nearest Building Unit, High Occupancy Building Unit, and School;
 - 2.** A description of the community outreach efforts conducted by the Operator prior to preparing the alternative location analysis, including whether the Operator made information available in languages other than English based on the linguistic needs of the community, questions and Operator responses to questions from residents of the Disproportionately Impacted Community, and any public meetings conducted (including location, time of day, and whether interpreters were requested and provided) with residents of the Disproportionately Impacted Community;
 - 3.** The number and description of existing Oil and Gas Locations, Oil and Gas Facilities, and Wells also within 2,000 feet of any Residential Building Unit, High Occupancy Building Unit, or School Facility within 2,000 feet of any proposed Oil and Gas Location analyzed in the Alternative Location Analysis.
 - cc.** Distance to any municipal or county boundaries that are within 2,000 feet, and the names of the Proximate Local Government(s).
 - dd.** **Relevant Local Government Information.** For each alternative location analyzed, the:
 - 1.** Name of the Relevant Local Government;

- 2. The Relevant Local Government's land use or zoning designation;
 - 3. The Relevant Local Government's permitting process; and
 - 4. The status of each Relevant Local Government's permit process, if applicable.
- ee. Current land use, and plans for future land use at and proximal to each identified location.
 - ff. Distance to nearest wetland, surface water, surface water supply area as defined in Rule 411.a.(1), or Public Water System supply well that is completed in a Type III Aquifer or is a groundwater under the direct influence of surface water well as defined in Rule 411.b.(1).
 - gg. Distance to nearest High Priority Habitat.
 - hh. Anticipated method of right-to-construct and surface ownership.
- D. The Director may request that the Operator provide any additional information or analyze additional locations for the Oil and Gas Location if the Director believes that additional analysis or information is necessary for the Director's and Commission's review of the public health, safety, welfare, environmental, and wildlife impacts of the locations the Operator analyzes.

(3) Cultural Distances.

- A. A table showing the distance and approximate bearing from the edge of the Working Pad Surface of the proposed or existing Oil and Gas Location to the edge or corner of the nearest building, Residential Building Unit, High Occupancy Building Unit, and School Facility; the nearest boundary of a Designated Outside Activity Area; the nearest Residential Building Unit, High Occupancy Building Unit, or School Facility within a Disproportionately Impacted Community within 2,000 feet of the proposed Working Pad Surface; the boundary of the nearest Disproportionately Impacted Community; and the nearest public road, above ground utility, railroad, and property line.
- B. A table showing the number of Building Units, Residential Building Units, High Occupancy Building Units, School properties, School Facilities, and Designated Outdoor Activity Areas within the following radii of the Working Pad Surface:
 - i. 0–500 feet;
 - ii. 501–1,000 feet; and
 - iii. 1,001–2,000 feet.
- C. A current aerial image depicting the information in the tables in Rules 304.b.(3).A & B.

- (4) Location Pictures.** The Operator will attach to the Form 2A photographs as described in this Rule 304.b.(4). The photographs will depict the staked location and its surroundings. Each photograph will be identified by date taken, Well or location name, and direction of view. The field of view of each photograph will be shown on a current aerial image, also attached. Operators will provide location photographs in sufficiently high resolution so that details of current surrounding land use may be readily discerned. Operators will attach one of the following photograph options:

- A. A minimum of 4 color photographs showing the staked location and its surroundings from each cardinal direction, with no significant gaps between fields of view;
 - B. A minimum of 2 panoramic photographs of the location and its surroundings covering a full 360° around the location; or
 - C. Photographs of the locations and its surroundings taken from an unmanned aerial vehicle.
- (5) **Site Equipment List.** A list of major equipment components to be used in conjunction with drilling and operating the Well(s), including but not limited to, all Tanks, Pits, flares, combustion equipment, separators, and other ancillary equipment.
- (6) **Flowline Descriptions.** A description of the proposed location, size, and material of any Flowlines, including Off-Location Flowlines.
- (7) **Drawings.** Operators will provide the drawings, maps, and figures required below in a suitable size, scale, and electronic format for the Director to conduct a review. If multiple drawings are required to convey the required information, then the Operator will provide them in a logical manner. All drawings, maps, and figures will include a scale bar and north arrow, the Operator's name, the site name, and other information as necessary to identify the attachment as part of the Oil and Gas Development Plan. Aerial imagery used for base maps will be current.
- A. **Location Drawings.** A scaled drawing and scaled aerial photograph showing the approximate outline of the Oil and Gas Location and Working Pad Surface and all visible improvements within 2,000 feet of the proposed Oil and Gas Location (as measured from the proposed edge of the Working Pad Surface), with a horizontal distance and approximate bearing from the Working Pad Surface. If there are no visible improvements within 2,000 feet of a proposed Oil and Gas Location, the Operator will specify this on the Form 2A. Visible improvements will include, but not be limited to:
- i. All buildings and Building Units, with High Occupancy Building Units identified;
 - ii. Publicly maintained roads and trails, including their names;
 - iii. Fences;
 - iv. Above-ground utility lines;
 - v. Railroads;
 - vi. Pipelines or Pipeline markers;
 - vii. Mines;
 - viii. Oil and gas Wells and associated Production Facilities;
 - ix. Injection Wells and associated facilities;
 - x. Plugged oil and gas Wells, including dry holes;
 - xi. Known water wells; and
 - xii. Known sewers with manholes.

- B. Layout Drawings.** Location construction and operations layout drawings, location construction, and operations cross-section plots including location and finish grades and operations facility layout drawings. These drawings will include, as applicable to the proposed Oil and Gas Location:
- i. The Working Pad Surface and surrounding disturbed area making up the entirety of the Oil and Gas Location;
 - ii. A preliminary drill rig layout;
 - iii. Preliminary Well completion and Stimulation layout;
 - iv. If a Well is proposed to be hydraulically fractured, a preliminary layout drawing of the Flowback equipment, including the equipment and connections to comply with reduced emission completion requirements pursuant to Rule 903.c.(1); and
 - v. The location of all existing and proposed Oil and Gas Facilities listed on the Form 2A.
- C. Wildlife Habitat Drawing.** A drawing, map, or aerial image depicting High Priority Habitat within 1 mile of the Working Pad Surface.
- D. Preliminary Process Flow Diagrams.** Process flow diagrams depicting:
- i. Flowback operations; and
 - ii. Oil and gas production operations.
- E. Hydrology Map.** A topographic map showing the horizontal distance and approximate bearing from the Oil and Gas Location to:
- i. All surface Waters of the State within 2,640 feet of the proposed Working Pad Surface. The map will indicate which surface water features are downgradient;
 - ii. All Water Sources within 2,640 feet of the proposed Working Pad Surface;
 - iii. Any Public Water System facilities, including intakes, wells, storage facilities, recharge areas, and treatments plants within 2,640 feet of the Working Pad Surface;
 - iv. Rule 411 buffer zones within 2,640 feet of the Working Pad Surface; and
 - v. Any surface waters within 2,640 feet of the Working Pad Surface that are 15 stream miles upstream of a Public Water System intake.
- F. Access Road Map.** A U.S. Geological Survey topographic map, or scaled aerial photograph showing the access route from the nearest publicly maintained road to the proposed Oil and Gas Location, and identifying any new access roads constructed as part of the Oil and Gas Development Plan. The map will clearly identify any Residential Building Units within 2,000 feet of the access road for this Oil and Gas Location.
- G. Related Location and Flowline Map.** A U.S. Geological Survey topographic map, or scaled aerial photograph showing:

- i. All existing, approved, and proposed Oil and Gas Locations within 2,000 feet of the area affected by the proposed Oil and Gas Development Plan;
 - ii. All proposed Flowline corridors, including Off-Location Flowline corridors, to or from the proposed Oil and Gas Location and to or from associated Oil and Gas Facilities.
 - H. **Directional Well Plat.** If the proposed Oil and Gas Location includes one or more directional Wells, a map showing the surface hole location and the proposed wellbore trajectory with the top of the productive zone and bottom-hole location for each Well.
 - I. **Geologic Hazard Map.** A map identifying any Geologic Hazards within a 1 mile radius of the proposed Working Pad Surface. For any identified Geologic Hazard that extends beyond the 1 mile radius, a second map scaled to show the extent of that hazard in relation to the proposed Oil and Gas Location.
 - J. **Disproportionately Impacted Communities Map.** If the proposed Oil and Gas Location is within 2,000 feet of a Residential Building Unit, High Occupancy Building Unit, or School Facility located within a Disproportionately Impacted Community, a map or aerial photo showing the spatial relationship between the proposed Oil and Gas Location and the building(s) identified, and the boundaries of the census block group that meets the 100 Series definition of a Disproportionately Impacted Community.
- (8) **Geographic Information System (“GIS”) Data.** GIS polygon data to describe the boundaries of the entire proposed Oil and Gas Location and the Working Pad Surface.
- (9) **Land Use Description.** A narrative description of the current land use(s), the Relevant Local Government’s land use or zoning designation, any applicable federal land use designations for proposed Oil and Gas Locations on federal surface estate, and the landowner’s designated final land use(s) for the purpose of determining Reclamation standards.
- A. If the final land use includes residential, industrial/commercial, or Crop Land and does not include any other uses, the land use should be indicated and no further information is needed.
 - B. **Reference Area Data.** If the final land use includes rangeland, forestry, recreation, or wildlife habitat, then a Reference Area will be selected and documented. The Operator will also submit the following information:
 - i. **Reference Area Map.** A topographic map or aerial image showing the location of the Reference Area with respect to the proposed Oil and Gas Location including latitude and longitude of Reference Area; and
 - ii. **Reference Area Pictures.** 5 color photographs of the Reference Area, including 4 taken from each cardinal direction, and 1 taken from above the Reference Area. Each photograph will be identified by date taken, Well or Oil and Gas Location name, and direction of view. The photographs will be taken during the peak growing season and will clearly depict vegetation cover and diversity. To ensure that the photographs accurately depict vegetation during peak growing season, these photographs may be submitted up to 12 months after the Form 2A. Photographs of the Reference Area may be taken from an unmanned aerial vehicle, provided such aerial images are collected at a sufficient resolution to provide specific vegetation information.

- iii. A table of the dominant vegetation within the Reference Area.
- (10) **NRCS Map Unit Description.** A Natural Resources Conservation Service (“NRCS”) soil map unit description.
 - (11) **Best Management Practices.** A description of any Operator-proposed, site specific Best Management Practices that the Operator commits to perform as part of the implementation of the Oil and Gas Development Plan, including any Best Management Practices, conditions of approval, or stipulations required by an approved federal permit.
 - (12) **Surface Owner Information.**
 - A. Contact information for the Surface Owner(s); and
 - B. A redacted version of the Surface Use Agreement or a memorandum describing the Surface Use Agreement that includes a description of the lands subject to the agreement, signatures of the parties to the agreement, dates of signature, and any provisions of the agreement that are relevant to the Form 2A.
 - (13) **Proximate Local Government Information.** Contact information for any Proximate Local Governments.
 - (14) **Wetlands.** If a federal, state, or local government agency requires a permit or sets other substantive standards for direct or indirect impacts to a wetland, including but not limited to the discharge of dredged or fill material during the construction of a proposed Oil and Gas Location, access roads to the Oil and Gas Location, or Pipeline corridors associated with the Oil and Gas Location, evidence that the Operator has complied with the agency’s substantive standards, sought any required permits, and whether the permit(s) have been issued.
 - (15) **Schools and Child Care Centers.** If the proposed Oil and Gas Location is within 2,000 feet of a School Facility, Future School Facility, or Child Care Center, a statement indicating whether the School Governing Body requested consultation.
- c. **Plans.** All Form 2As will include site-specific plans that demonstrate compliance with the Commission’s Rules for the operation of the proposed Oil and Gas Location in a manner that is protective of and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources. Each Form 2A will include the following plans, unless otherwise provided in a Commission Order approving a CAP pursuant to Rule 314.
- (1) **Emergency Spill Response Program.** For operations within 2,640 feet of a groundwater under the direct influence of surface water well or Type III Well or surface water that is 15 miles or less upstream from a Public Water System(s) intake, an emergency spill response program consistent with the requirements of Rules 411.a.(4).B, 411.b.(5).B, & 602.j.
 - (2) **Noise Mitigation Plan.** A noise mitigation plan consistent with the requirements of Rule 423.a.
 - (3) **Light Mitigation Plan.** A light mitigation plan consistent with the requirements of Rule 424.a.
 - (4) **Odor Mitigation Plan.** An odor mitigation plan consistent with the requirements of Rule 426.a.
 - (5) **Dust Mitigation Plan.** A dust mitigation plan consistent with the requirements of Rule 427.a.

- (6) **Transportation Plan.** If the Relevant Local Government requires a transportation plan or an equivalent traffic planning document, the transportation plan submitted to the Relevant Local Government. If the Relevant Local Government does not require a transportation plan, the Director may request information regarding haul routes, traffic volumes, and Best Management Practices to avoid, minimize, and mitigate impacts from traffic associated with the Oil and Gas Location.
- (7) **Operations Safety Management Program.** An operations safety management program consistent with the requirements of Rule 602.d.
- (8) **Emergency Response Plan.** An emergency response plan consistent with the requirements of Rule 602.j.
- (9) **Flood Shut-In Plan.** If located in a Floodplain, a shut-in plan consistent with the requirements of Rule 421.b.(1).
- (10) **Hydrogen Sulfide Drilling Operations Plan.** If operating in zones known or suspected to contain hydrogen sulfide gas ("H₂S"), a H₂S drilling operations plan consistent with the requirements of Rule 612.d.
- (11) **Waste Management Plan.** A waste management plan consistent with the requirements of Rule 905.a.(4).
- (12) **Gas Capture Plan.** A gas capture plan or commitment consistent with the requirements of Rule 903.e.
- (13) **Fluid Leak Detection Plan.** A fluid leak detection plan.
- (14) **Topsoil Protection Plan.** A topsoil protection plan consistent with the requirements of Rule 1002.c.
- (15) **Stormwater Management Plan.** A stormwater management plan consistent with the requirements of Rule 1002.f.
- (16) **Interim Reclamation Plan.** An interim reclamation plan consistent with the requirements of Rule 1003.
- (17) **Wildlife Plan.** A Wildlife Protection Plan or Wildlife Mitigation Plan consistent with the requirements of Rule 1201.
- (18) **Water Plan.** A plan identifying the planned source of water for drilling and completion operations including:
 - A. The planned source and volume of all surface water and Groundwater to be used and the coordinates of the planned source of water;
 - B. The seller's name and address if water is to be purchased;
 - C. If recycled or reused water is anticipated to be used, a description of the source of that water, background concentrations of chemicals listed in Table 437-1, anticipated method of transporting the water, and anticipated volumes to be used in addition to the reuse and recycling plan requirements of Rule 905.a.(3); and
 - D. If fresh water is anticipated to be used, a description of why the Operator does not intend to use recycled or reused water.

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

- A. A description of all resources to which cumulative adverse impacts are expected to be increased;
- B. A description of specific measures taken to avoid or minimize the extent to which cumulative adverse impacts are increased;
- C. A description of all measures taken to mitigate or offset cumulative adverse impacts to any of the resources; and
- D. Additional information determined to be reasonable and necessary to the evaluation of cumulative impacts by the Operator, the Director, CDPHE, CPW, or the Relevant Local Government.

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

- A. A description of any measures taken to directly mitigate adverse impacts to the Disproportionately Impacted Community;
- B. Certification that written materials have been and will be provided in all languages spoken by 5% or more of the population in the census block group where the proposed Oil and Gas Location is located and those census block groups within 2,000 feet of the proposed Oil and Gas Location; and
- C. The proposed date, time, and location of any public meeting(s) that are held at a location in close proximity to the Disproportionately Impacted Community. The Operator will provide child care and interpretation services at such a public meeting upon request.

(21) **Geologic Hazard Plan.** If the Operator identifies any Geologic Hazards pursuant to Rule 304.b.(7).I, the Operator will submit a Geologic Hazard plan describing proposed mitigation measures.

d. **Lesser Impact Areas.** The Director may exempt an Operator from submitting any of the information required by Rule 304.b, or any plan required by Rule 304.c, under the following circumstances:

- (1) If the Operator requests an exemption from the Director based on evidence showing the information or plan is unnecessary because:
 - A. The impacted resource or resource concern are not present in the area; or
 - B. Impacts to the resource will be so minimal as to pose no concern.
- (2) Operators may request an exemption from the Director in writing, without proceeding through the ordinary Rule 502 variance process. A request for an exemption will be provided with the Form 2A at the time the form is submitted.
- (3) The Director may grant an exemption as part of the completeness determination if the Director concurs with the Operator that providing the information or plan is unnecessary to

protect and minimize adverse impacts to public health, safety, welfare, the environment, or wildlife resources.

- (4) If the Director grants an exemption, the Commission may nevertheless request the information or plan subject to the exemption, or related information, if the Commission determines that reviewing the information or plan is necessary to protect and minimize adverse impacts.

e. Substantially Equivalent Information.

- (1) The Operator may submit substantially equivalent information or plans developed through a Local Government land use process in lieu of providing information or plans required by Rules 304.b & 304.c. Nothing in this Rule 304.e.(1) precludes the Director or Commission from requiring the Operator to submit information or plans otherwise required by Rules 304.b or 304.c because the Director or Commission determines that the information or plans developed through the Local Government land use process are not equivalent.
- (2) For proposed Oil and Gas Locations on federal surface or mineral estate for which an Operator has submitted environmental analysis pursuant to Rule 303.a.(6).B.ii, the Operator may provide references to equivalent information in the federal environmental analysis in lieu of providing information or plans required by Rules 304.b & 304.c, including the alternative location analysis required by Rule 304.b.(2). Nothing in this Rule 304.e.(2) precludes the Director or Commission from requiring the Operator to submit information or plans otherwise required by Rules 304.b or 304.c because the Director or Commission determines that the federal environmental analysis is not equivalent.

305. APPLICATION FOR A DRILLING AND SPACING UNIT

a. Procedural Requirements.

- (1) Operators seeking to create a new Drilling and Spacing Unit, or to modify an existing Drilling and Spacing Unit, will file a Drilling and Spacing Unit pursuant to Rule 503.g.(2). If the proposed Drilling and Spacing Unit is part of an Oil and Gas Development Plan application, the Drilling and Spacing Unit application will be included with the hearing application for that Oil and Gas Development Plan.
- (2) All Drilling and Spacing Unit applications will include the following information:
 - A. Certification that the Operator has complied with the Local Government siting disposition requirements of Rule 302.b.
 - B. Certification that the operations in the Drilling and Spacing Unit will be conducted in a reasonable manner to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
 - C. The unit boundary and interwell completion setback distances.
 - D. All existing Oil and Gas Locations and associated Wells that are developing the same formation in the application lands. The application will discuss what the Operator intends to do with the existing Oil and Gas Locations and Wells.
 - E. The wellbore orientation for all horizontal Wells in the proposed unit.

- F. Whether there are existing units and Wells within the proposed application lands and what the disposition of those existing units and Wells in those existing units will be under the proposed application.
 - G. The Oil and Gas Locations that are proposed for the unit. If an Operator has applied for a Form 2A, the Operator will identify its document number. If the Form 2A has already been approved, the Operator will identify its Location ID number.
 - H. The total number of proposed Wells for the unit.
 - I. Any additional information as may be required to support the requested prayer for relief.
 - J. All prior orders that implicate the prayer for relief.
 - K. Certification that satisfies the requirements of Rule 505.a.
 - L. For at least one portion of a mineral tract within the proposed unit, documentation showing the applicant's status as an Owner within the unit. Acceptable forms of documentation include, but are not limited to:
 - i. Mineral deed or memorandum;
 - ii. Mineral lease or memorandum; or
 - iii. Any other agreement confirming the applicant's right to drill into and produce from a Pool, or a memorandum of such agreement.
 - M. For federal minerals, certification that the Operator will comply with any applicable federal unit agreement or communitization agreement requirements.
- b. Standards for Approval.** In determining whether to recommend that the Commission approve or deny a proposed Drilling and Spacing Unit, the Director will consider whether the proposed Drilling and Spacing Unit:
- (1) Protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources;
 - (2) Prevents waste of oil and gas resources;
 - (3) Avoids the drilling of unnecessary Wells; and
 - (4) Protects correlative rights.

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:
 - (1) The Director has fully reviewed the Oil and Gas Development Plan and all supporting application materials and has obtained all information necessary to evaluate the proposed operation and its potential impacts on public health, safety, welfare, the environment, and wildlife resources;

- (2) The Director has reviewed and commented on the Drilling and Spacing Unit application, if submitted with the Oil and Gas Development Plan;
- (3) The public comment period has ended and the Director has considered all substantive public comments received, including comments from the Relevant Local Government(s) or Proximate Local Government(s);
- (4) If applicable, CPW, CDPHE, and Public Water System consultations have been completed and submitted to the Director; and
- (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.

b. Director's Recommendation.

- (1) **Approval.** The Director may Recommend that the Commission approve an Oil and Gas Development Plan that:
 - A. Complies with all requirements of the Commission's Rules; and
 - B. In the Director's judgment, protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
- (2) **Conditions of Approval.**
 - A. The Director may Recommend that the Commission add conditions to the approval that are necessary and reasonable to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
 - B. For any proposed Oil and Gas Development Plan that includes proposed Oil and Gas Locations that have already been approved by the federal agency or agencies, the Director will consider environmental analyses and federal stipulations and conditions of approval before Recommending any additional conditions of approval.
- (3) **Denial.** If the Director determines that an application does not provide necessary and reasonable protections for, or minimize adverse impacts to, public health, safety, welfare, the environment, and wildlife resources, or fails to meet the requirements of the Commission's Rules, the Director may Recommend that the Commission deny the Oil and Gas Development Plan.

c. Notice of Recommended Decision. Upon making a Recommendation that the Commission approve or deny an Oil and Gas Development Plan, the Director will post the written basis for the Director's Recommendation on the Commission's website, file its Recommendation with the Hearings Unit, and notify the following persons electronically in a manner determined by the Director:

- (1) The Surface Owner(s) whose contact information was provided pursuant to Rule 304.b.(12).A;
- (2) The Operator;
- (3) The Relevant Local Government(s);
- (4) All Proximate Local Governments;

- (5) CDPHE, if consultation occurred subject to Rule 309.f;
 - (6) CPW, if consultation occurred subject to Rule 309.e;
 - (7) Public Water System(s), if consultation occurred pursuant to Rule 309.g;
 - (8) The Colorado State Land Board (if a mineral owner);
 - (9) The appropriate federal agency (if any federal entity is mineral owner); and
 - (10) Any person or entity that has provided a comment electronically pursuant to Rule 303.d.(1).
- d. If the Director does not issue a Recommendation within 120 days of a completeness determination, the Operator may move for a hearing before the Commission, Administrative Law Judge, or Hearing Officer. At such hearing, the Director will provide an explanation of the status of the Director's review of the Oil and Gas Development Plan and any reasons for delay. For an Oil and Gas Development Plan within an approved CAP, the Operator may move for a hearing if the Director does not issue a Recommendation within 90 days of a completeness determination.

307. COMMISSION CONSIDERATION OF THE OIL AND GAS DEVELOPMENT PLAN

- a. **Director's Recommendation.** Upon receipt of the Director's Recommendation on an Oil and Gas Development Plan, it will be considered by the Commission pursuant to Rule 510, and Rules 508 & 509, as appropriate. The Commission will consider whether to delegate consideration of an Oil and Gas Development Plan to an Administrative Law Judge or Hearing Officer, except that the Commission will not delegate:
- (1) The Director's Recommendation of denial to an Administrative Law Judge or Hearing Officer; or
 - (2) Consideration of an Oil and Gas Development Plan that the Director Recommends approving, but includes one or more proposed Oil and Gas Locations that have been denied by a Relevant Local Government.
- b. **Commission's Consideration of Director's Recommendation.**
- (1) **Approval.** The Commission may approve an Oil and Gas Development Plan that complies with all requirements of the Commission's Rules, and protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources. The Commission may add any conditions to the approval of an Oil and Gas Development Plan that it determines are necessary and reasonable to ensure compliance with all requirements of the Commission's Rules or to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
 - (2) **Denial.** If the Commission determines that an Oil and Gas Development Plan does not provide necessary and reasonable protections for, or minimize adverse impacts to, public health, safety, welfare, the environment, and wildlife resources, or fails to meet the requirements of the Commission's Rules, the Commission may deny the Oil and Gas Development Plan. The Commission will identify in the record the basis for the denial.
 - (3) **Stay.** If the Commission determines that additional information or analysis, including an alternative location analysis or an analysis of additional locations if an alternative location analysis was already conducted, is necessary for it to make a decision to approve or deny an Oil and Gas Development Plan, it may stay consideration of the Oil and Gas

Development Plan for further consideration until the Director or Operator can provide the Commission with the additional information or analysis necessary to consider the Oil and Gas Development Plan. The Commission may set or extend reasonable deadlines for the Director or Operator to provide the additional information or analysis to the Commission.

- c. **Final Agency Action.** The Commission's decision to approve or deny an Oil and Gas Development Plan will constitute final agency action. The Commission's decision to stay an Oil and Gas Development Plan for further consideration will not constitute final agency action.

308. **FORM 2, APPLICATION TO DRILL, DEEPEN, RE-ENTER, OR RECOMPLETE, AND OPERATE**

- a. **Submitting Form 2.** If the Commission approves an Operator's Oil and Gas Development Plan, or if the Operator's Form 2A and Drilling and Spacing Unit, where applicable, were approved prior to the effective date of this Rule, then the Operator will submit and obtain the Director's approval of a complete Form 2, Application for Permit to Drill, before taking any of the actions listed in Rules 308.a.(1)–(6) below. The Form 2 will detail the Operator's plans to:

- (1) Drill any Well;
- (2) Deepen any existing Well;
- (3) Re-enter, complete, and operate any plugged Well (except for re-entry to re-plug will require a Form 6, Notice of Intent to Abandon pursuant to Rule 434);
- (4) Recomplete and operate any existing Well;
- (5) Drill a sidetrack from any Well; or
- (6) Convert a stratigraphic Well into a production Well.

- b. **Information Requirements.** All Form 2s require the following information.

- (1) Every Form 2 will specify the distance between the Well and wall or corner of the nearest building, Building Unit, public road, above ground utility, railroad, and property line.
- (2) **Wellbore Diagram.** A Form 2 to deepen, to re-enter, to recomplete to a different reservoir, or to drill a sidetrack of an existing Well will have a wellbore diagram attached.
- (3) A Form 2 to deepen, to re-enter, to recomplete to a different reservoir, or to drill a sidetrack of an existing Well will include the details of the proposed work.
- (4) **Well Location Plat.** A Form 2 to drill a new Well or a new wellbore will have a well location plat attached. The plat will be a current scaled drawing(s) of the entire section(s) penetrated by the proposed Well with the following minimum information:
 - A. Dimensions on adjacent exterior section lines sufficient to completely describe the quarter section(s) containing the proposed Well surface location, top of productive zone, wellbore, and bottom hole location will be indicated. If dimensions are not field measured, the plat will state how the dimensions were determined.
 - B. For irregular, partial, or truncated sections, dimensions will be furnished to completely describe the entire section(s) containing the proposed Well.

- C. The field-measured distances from the nearer north/south and nearer east/west section lines will be measured at 90 degrees from said section lines to the Well surface location and referenced on the plat. For unsurveyed land grants and other areas where an official public land survey system does not exist, the Well locations will be spotted as footages on a protracted section plat using Global Positioning System ("GPS") technology and reported as latitude and longitude pursuant to Rule 216.
 - D. The latitude and longitude of the proposed surface location will be provided on the drawing with a minimum of 5 decimal places of accuracy and precision using the North American Datum ("NAD") of 1983 (e.g., latitude 37.12345 N, longitude 104.45632 W). If GPS technology is utilized to determine the latitude and longitude, all GPS data will meet the requirements set forth in Rule 216.
 - E. The Well location plat will include the proposed top of the productive zone and the bottom hole location. The plat will be in a suitable size and scale for the Director to conduct a review. If the wellbore penetrates multiple sections, the Well location plat will depict every section penetrated by the wellbore.
 - F. A map legend.
 - G. A north arrow.
 - H. A bar scale.
 - I. The ground elevation.
 - J. The basis of the elevation (how it was calculated or its source).
 - K. The basis of bearing or interior angles used.
 - L. Complete description of monuments and collateral evidence found; all aliquot corners used will be described.
 - M. The legal land description by section, township, range, principal meridian, baseline, and county.
 - N. Operator name.
 - O. Well name and Well number.
 - P. Date of completion of scaled drawing.
- (5) **Deviated Drilling Plan.** A Form 2 to drill a deviated (directional, highly deviated, or horizontal) wellbore utilizing controlled directional drilling methods will have the deviated drilling plan attached. The deviated drilling plan will meet the requirements set forth in Rule 410.a.
- (6) **Casing and Cementing Plan.** A Form 2 to drill a Well will include a casing and cementing plan that addresses anticipated Groundwater by demonstrating how it will be isolated, potential flow and hydrocarbon bearing zones, and subsurface hazards. The casing and cementing plan will describe the top and bottom depths and the concentration of total dissolved solids ("TDS") in milligrams per liter of all Groundwater from the surface to the depth of the bottom hole, and demonstrate compliance with the casing and cementing requirements of Rule 408.e. To identify top and bottom depths and TDS concentrations of Groundwater, the Operator will use all available sources of pertinent information, including

but not limited to reports from the Water Quality Control Commission, the Division of Water Resources, the Colorado Geological Survey, the United States Geological Survey, the Colorado Groundwater Atlas, peer-reviewed publications, the Commission's Field Scout Cards, electric logs (e.g., resistivity logs), produced water samples, Groundwater samples collected to support aquifer exemptions, and samples collected from domestic, municipal, agricultural, and industrial water wells. If the top or bottom depth, or TDS concentration cannot be determined using these sources the Operator will comply with Rule 408.e.(5) to ensure isolation of all such Groundwater. The casing and cementing plan will also identify the distance between the objective formation to be hydraulically fractured and Groundwater with less than 10,000 milligrams per liter total dissolved solids, and indicate whether a confining layer exists in a separate stratigraphic layer between those zones.

(7) Statewide Offset Well Evaluation.

- A. The Form 2 will include an offset Well evaluation. The Operator will evaluate the construction and integrity of all offset Wells within 1,500 feet of the proposed wellbore. The Operator will provide a plan to address all offset Wells within 1,500 feet that do not meet isolation and integrity requirements.
- B. The Operator will attach any consents obtained pursuant to Rule 408.u.(1) to the Form 2.
- C. The Operator will provide notice pursuant to Rule 408.v.

(8) Hydraulic Fracturing Treatment at Depths 2,000 Feet or Less. If an Operator proposes to drill a Well at a depth less than 2,000 feet true vertical depth ("TVD") below the surface that will be subject to Hydraulic Fracturing Treatment, the following requirements apply:

- A. **Geology and Hydrogeology Assessment.** The Operator will characterize and assess the local geology and Groundwater resources within 2 miles of the proposed oil and gas Well.
 - B. **Engineering Assessment.** The Operator will describe the proposed drilling process, Well design, completion process, Hydraulic Fracturing Treatment process, production methods, and facilities. The assessment will identify any risks to geology and hydrogeology and explain how the Operator will prevent, minimize, or mitigate any identified risk.
- (9)** With their Form 2, Operators will state whether the proposed Well is subject to the requirements of § 24-65.1-108, C.R.S., because it is located in an area designated as one of state interest.

c. Administrative Approval or Denial of the Form 2.

- (1)** The Director may approve a Form 2 that complies with all requirements of the Commission's Rules, and protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
 - A. The Director may add any conditions of the approval to a Form 2 that are necessary and reasonable to ensure compliance with all requirements of the Commission's Rules or to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
 - B. The Director will review the Oil and Gas Location where the Well is located to ensure that necessary and reasonable conditions of approval are applied to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.

- (2) The Director may deny any Form 2 that does not meet all requirements of the Commission's Rules, or does not provide necessary and reasonable protections for, or minimize adverse impacts to, public health, safety, welfare, the environment, and wildlife resources. The Director will put forth the reason for the denial. If the Director denies a Form 2, the Operator has the right for a hearing in front of the Commission at an upcoming hearing.
 - (3) The Director may request, and an Operator will provide upon request, any relevant information necessary and reasonable to determine whether to approve or deny a Form 2. The Director will provide the Operator with the reason for the request.
 - (4) The Director will endeavor to review Form 2 applications in a timely and efficient manner. If the Director does not complete review within 90 days of an Operator submitting a Form 2, the Operator may move for a hearing before the Commission, Administrative Law Judge, or Hearing Officer. At such hearing, the Director will provide an explanation of the status of the Director's review of the Form 2 and any reasons for delay.
- d. **Changes to Form 2.** Prior to approval of the Form 2, minor revisions or requested information may be provided by contacting the Director. After approval, any substantive changes will be submitted for approval on a Form 2. A Form 4 will be submitted, along with supplemental information requested by the Director, when non-substantive revisions are made after approval, and no additional fee will be imposed.

309. CONSULTATION

- a. Unless otherwise specified below, all consultations required by Rule 309 will occur within 45 days after the Director posts the completeness determination on the Commission's website pursuant to Rule 303.d.(1), except that consultations will occur within 60 days for proposed Oil and Gas Development Plans or Form 2As located within a Disproportionately Impacted Community.
- b. **Surface Owners.** The Operator will consult in good faith with the Surface Owner or the Surface Owner's appointed agent about the location of all surface disturbances, and in preparation for Reclamation and abandonment. The Surface Owner or appointed agent may submit relevant comments to the Director about any Oil and Gas Development Plan pursuant to Rule 303.d.(1).
 - (1) **Information Provided by Operator.** When consulting with the Surface Owner or appointed agent, the Operator will furnish, in writing:
 - A. All the information required for a complete Oil and Gas Development Plan;
 - B. The expected date of commencement of operations;
 - C. Topsoil management practices to be employed; and
 - D. The location of associated roads, Production Facilities, infrastructure, and any other areas to be used for Oil and Gas Operations.
 - (2) **Waiver.** The Surface Owner or the Surface Owner's appointed agent may waive, permanently or otherwise, their right to consult with the Operator at any time. Such waiver will be in writing and signed by the Surface Owner.
 - (3) Operators will conduct Oil and Gas Operations in a manner that accommodates the Surface Owner by minimizing intrusion upon and damage to the surface of the land.

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

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

- A. The date construction is anticipated to begin;
- B. The anticipated duration of pad construction, drilling, and completion activities;
- C. The types of equipment anticipated to be present on the proposed Oil and Gas Locations;
- D. The Operator's interim and final Reclamation obligation;
- E. A description and diagram of the proposed Oil and Gas Locations that includes the dimensions of the proposed Oil and Gas Location and the anticipated layout of production or injection facilities, Pipelines, roads, and any other areas to be used for Oil and Gas Operations;
- F. Information relevant to potential health, safety, welfare, and environmental impacts associated with Oil and Gas Operations, including but not limited to security, noise, light, odors, dust, and traffic; and
- G. Information about proposed Best Management Practices or mitigation measures to avoid, minimize, or mitigate those impacts.

(2) **Waiver.** The Building Unit owner, agent, or tenant may waive, permanently or otherwise, their respective right to receive notice pursuant to the Commission's Rules. Any such waiver will be in writing, signed by the owner, agent, or tenant.

(3) The Operator and the Director will consider all concerns related to public health, safety, welfare, the environment, and wildlife resources raised by Building Unit owners, their agents, or tenants during the Formal Consultation Process, including concerns raised during informational meetings or in written comments. The Operator will provide a written response to all such concerns to the Director as an attachment to the Form 2A prior to the Director making a Recommendation pursuant to Rule 306.

(4) All information provided pursuant to this Rule 309.c will also be provided in all languages spoken by 5% or more of the population in the census block group(s) within 2,000 feet of each proposed Oil and Gas Location within the Oil and Gas Development Plan.

d. **Schools, Child Care Centers, and School Governing Bodies.**

(1) No less than 30 days before the Operator submits an Oil and Gas Development Plan, an Operator will provide a pre-application notice of intent to conduct Oil and Gas Operations to any relevant School, Child Care Center, and School Governing Body within 2,000 feet as measured from the Working Pad Surface to:

- A. The property line of a parcel currently owned by the School, Child Care Center, or School Governing Body as identified through county assessor records;

- B. The property line of a parcel considered a Future School Facility as identified on the final approved plat that may be obtained from the planning department of the Local Government; or
 - C. What reasonably appears to be a School Facility (regardless of property ownership) based on the Operator's review of current aerial maps that show surface development or surveys of the area.
- (2) The Notice will include:
- A. The Operator's contact information;
 - B. The location and general description of the proposed Oil and Gas Location, including the cultural distances table as required under Rule 304.b.(3), and drawings, maps, and figures required under Rule 304.b.(7).
 - C. The Relevant Local Government contact information;
 - D. The anticipated date, by calendar year and quarter, that construction will begin and the expected schedule of drilling and completion activities;
 - E. A description of the status of the Relevant Local Government's siting disposition, if applicable;
 - F. Notice that the School Governing Body for the School Facility or Child Care Center may request a consultation to discuss the proposed operations by contacting the Operator, and that the Director may be invited to any meeting. A School Governing Body or Child Care Center may delegate the consultation process to the principal or senior administrator of a School or Child Care Center in proximity to the proposed Oil and Gas Location; and
 - G. Notice that the School, Child Care Center, or School Governing Body may submit comments regarding the proposed Oil and Gas Location to the Commission as part of the Rule 303.d.(1) public comment period.
- (3) A School Governing Body may waive the right to receive notice under this provision for the School Governing Body and all Schools within the area subject to the School Governing Body's oversight at any time by providing written notice to the Operator.
- (4) The Operator, School Governing Body, or Director may initiate consultation pursuant to this Rule 309. During the consultation, the School Governing Body may identify additional discrete facilities or areas it considers a School Facility or Child Care Center, and the Operator will provide relevant information regarding planned measures to avoid, minimize, or mitigate adverse impacts to the School Facility or Child Care Center.
- e. **Colorado Parks and Wildlife.**
- (1) **The Purpose of Consultation.** The purpose of consultation with CPW is to provide the Director the information necessary to determine whether an application protects Wildlife Resources and whether conditions of approval are necessary to Avoid, Minimize, or Mitigate Adverse Impacts to Wildlife Resources associated with High Priority Habitats, and protect against adverse impacts to Wildlife Resources resulting from Oil and Gas Operations. Factors that CPW may take into consideration during consultation include, but are not limited to, the following:

- A. Anticipated adverse impacts of the proposed Oil and Gas Operations on Wildlife Resources;
 - B. The extent to which the proposed siting of facilities Avoids or Minimizes Adverse Impacts;
 - C. The extent to which the proposed Oil and Gas Operations incorporate the use of existing facilities, roads, and Pipeline corridors and limit new surface disturbance and habitat fragmentation;
 - D. The extent to which the proposed Oil and Gas Operations use technology and Best Management Practices which are protective of Wildlife Resources, including but not limited to seasonal construction and drilling limitations, noise limitations, remote operations, equipment disinfection, and transporting and storing liquids through Pipelines and large Tanks or other measures to reduce traffic volumes;
 - E. The extent to which the proposed Oil and Gas Operations are within land used or designated to be used for residential, industrial, commercial, agricultural, or other purposes, and the existing wildlife disturbance associated with such use; and
 - F. The extent to which the proposed Oil and Gas Operations occur on federal or private lands for which the use and access of the lands in question may already be incorporated into a federal planning document, or the private Surface Owner designates the use of the land based on the function and utility of multiple use designations.
- (2) **When Consultation Must Occur.** The Operator will consult with the Surface Owner (unless the Surface Owner has waived their right to participate pursuant to Rule 309.e.(4).C) and with CPW about a Form 2A, Oil and Gas Development Plan, CAP, or other matter where:
- A. A proposed Oil and Gas Location or associated new access road, utility, or Pipeline corridor falls within High Priority Habitat, a State Park, or a State Wildlife Area;
 - B. A proposed Oil and Gas Location or associated new access road, utility, or Pipeline corridor falls within federally designated critical habitat or an area with a known occurrence for a federal or Colorado threatened or endangered species;
 - C. A proposed Oil and Gas Location or associated new access road, utility, or Pipeline corridor falls within an existing conservation easement established wholly or partly for wildlife habitat;
 - D. CPW requests consultation or because consultation is necessary to Avoid, Minimize, or Mitigate reasonably foreseeable direct, indirect, or cumulative Adverse Impacts to Wildlife Resources from a Form 2A, Oil and Gas Development Plan, CAP, or other matter where consultation is not otherwise required;
 - E. The Operator seeks a variance pursuant to Rule 502 from a provision in the Commission's 1200 Series Rules, or from wildlife-specific conditions of approval or Best Management Practices approved on a Form 2A; or
 - F. The Director determines that consultation would assist the Director in determining whether to recommend approving or denying an Oil and Gas Development Plan or CAP.
 - G. Notwithstanding the foregoing, the requirement to consult with CPW may be waived by CPW at any time. Any waiver will be based on a written finding by CPW that consultation is not necessary to protect Wildlife Resources from quantifiable adverse direct, indirect, or cumulative impacts from Oil and Gas Operations.

- (3) When Consultation is Not Required.** Consultation will not be required if:
- A.** The Director has previously approved a Form 2A or CAP and associated Wildlife Protection Plan or Wildlife Mitigation Plan that addresses the proposed Oil and Gas Location and the proposed operations are in compliance with previously approved plans.
 - B.** CPW has previously approved, in writing, a Wildlife Protection Plan, Wildlife Mitigation Plan, or other conservation plan that remains in effect for the area that includes the proposed Oil and Gas Operations and the Oil and Gas Location is in compliance with such plan.
 - C.** The Operator demonstrates and CPW agrees in writing that:
 - i.** The identified habitat and species triggering the consultation is no longer present and unlikely to return to the area; or
 - ii.** The proposed Oil and Gas Location is within an area either primarily or completely developed for residential, agricultural, commercial, or industrial use that makes the area incompatible with wildlife habitat.
 - D.** The proposed new Oil and Gas Location would involve a one-time increase in surface disturbance of 1 acre or less contiguous with an existing Oil and Gas Location with a Wildlife Mitigation Plan or other conservation plan that remains in effect for the area.
 - E.** A Commission Order limits the density of Oil and Gas Locations within a Drilling and Spacing Unit to 1 per section, and the Order includes a Wildlife Mitigation Plan or other conservation plan that remains in effect for the area.

(4) Procedures for Consultation.

- A.** The Operator will provide:
 - i.** The Oil and Gas Development Plan or CAP, if applicable, or for consultations that do not involve an Oil and Gas Development Plan or CAP, a description of the proposed Oil and Gas Operations, including their location and the phasing and duration of operations consistent with Rules 303 & 304, and, if applicable Rule 314; and
 - ii.** Any other relevant available information about the proposed Oil and Gas Operations and the affected Wildlife Resources, including the wildlife habitat drawing pursuant to Rule 304.b.(7).C and information required by Rule 1201.
- B.** The Operator, the Director, the Surface Owner, and CPW will have 60 days to conduct the consultation required by this Rule 309.e, recognizing that pre-consultation or consultation with Relevant Local Governments or federal land management agencies may shorten the process. The time period for consultation will begin at the start of the Rule 303.d.(1) or 314.f.(1).A public comment period, or when an Operator requests a variance. If the Operator has made no reasonable accommodation for consultation within such 60-day period, the Director will have discretion to postpone making a decision about an Oil and Gas Development Plan or CAP in order to allow consultation to occur if the Director believes the information from consultation is necessary to determine how to protect and Avoid, Mitigate, and Minimize Adverse Impacts to Wildlife Resources.
- C.** The Surface Owner may waive its right to participate in the consultation and is not obligated to provide access to its surface for such consultation. If access to the surface is not granted, the Operator will arrange a consultation meeting with CPW at a mutually agreeable time and location and the consultation will be based on best available data.

(5) Result of Consultation.

- A.** As a result of consultation required by this Rule 309.e, CPW may make written recommendations to the Director about how to protect Wildlife Resources and conditions of approval that are necessary and reasonable to Avoid, Minimize, or Mitigate direct, indirect, and cumulative Adverse Impacts to Wildlife Resources from Oil and Gas Operations pursuant to Rules 1202 & 1203.
- B.** CPW may also recommend, in writing, that the Commission deny an Oil and Gas Development Plan, Form 2A, Wildlife Protection Plan, Wildlife Mitigation Plan, Compensatory Mitigation Plan, or CAP due to reasonably foreseeable risks or Adverse Impacts to Wildlife Resources that cannot be Avoided, Minimized, or Mitigated to the extent necessary to protect these resources from Oil and Gas Operations.
- C.** Except for Rule 1202.c, CPW may waive, in writing, any operating or mitigation requirements otherwise required by Rules 1202 or 1203 based on CPW's analysis of potential Unavoidable Adverse Impacts.
- D.** For Rule 1202.c:
 - i.** CPW may waive the application of and the Director may grant an exception to Rule 1202.c.(1).R for any new ground disturbance that meets the criteria of Rule 1202.c between 300 feet and 500 feet from the Ordinary High Water Mark ("OHWM") of cutthroat trout designated crucial habitat, and native fish and other native aquatic species conservation waters, if the Operator adheres to the following Best Management Practices:
 - aa.** Contain Flowback and Stimulation Fluids in Tanks that are placed on a Working Pad Surface in an area with downgradient perimeter berming;
 - bb.** Construct lined berms or other lined containment devices pursuant to Rule 603.o around any new crude oil, condensate, and produced water storage Tanks that are installed after January 15, 2021;
 - cc.** Inspect the Oil and Location on a daily basis, unless the approved Form 2A provides for different inspection frequency or alternative method of compliance;
 - dd.** Maintain adequate Spill response equipment at the Oil and Gas Location during drilling and completion operations; and
 - ee.** Not construct or utilize any Pits, except that Operators may continue to utilize existing Pits that were properly permitted, constructed, operated, and maintained in compliance prior to January 15, 2021.
 - ii.** CPW may waive the application of and the Director may grant an exception to Rule 1202.c.(1).S:
 - aa.** For perennial streams, if the Operator adheres to the following Best Management Practices for any new ground disturbance that meets the criteria of Rule 1202.c between 300 feet and 500 feet from the OHWM of sportfish management waters:

1. Contain Flowback and Stimulation Fluids in Tanks that are placed on a Working Pad Surface in an area with downgradient perimeter berming;
2. Construct lined berms or other lined containment devices pursuant to Rule 603.o around any new crude oil, condensate, and produced water storage Tanks that are installed after January 15, 2021;
3. Inspect the Oil and Location on a daily basis, unless the approved Form 2A provides for different inspection frequency or alternative method of compliance;
4. Maintain adequate Spill response equipment at the Oil and Gas Location during drilling and completion operations; and
5. Not construct or utilize any Pits, except that Operators may continue to utilize existing Pits that were properly permitted, constructed, operated, and maintained in compliance prior to January 15, 2021.

bb. For ephemeral and intermittent streams, if the Operator adheres to the following Best Management Practices:

1. Contain Flowback and Stimulation Fluids in Tanks that are placed on a Working Pad Surface in an area with downgradient perimeter berming;
2. Construct lined berms or other lined containment devices pursuant to Rule 603.o around any new crude oil, condensate, and produced water storage Tanks that are installed after January 15, 2021;
3. Inspect the Oil and Location on a daily basis, unless the approved Form 2A provides for different inspection frequency or alternative method of compliance;
4. Maintain adequate Spill response equipment at the Oil and Gas Location during drilling and completion operations; and
5. Not construct or utilize any Pits, except that Operators may continue to utilize existing Pits that were properly permitted, constructed, operated, and maintained in compliance prior to January 15, 2021.

iii. CPW may waive the application of Rule 1202.c.(1).T.

iv. CPW may waive the application of and the Director may grant an exception to Rule 1202.c.(1) for a proposed location within an approved CAP that includes preliminary siting approval pursuant to Rule 314.b.(5).

E. Where applicable, CPW may also make written recommendations on whether a variance request pursuant to Rule 502 should be granted, under what conditions, and the reasons for any such recommendations, including requests for variances from Rule 1202.c.(1).Q–S. The Commission will consider the written recommendations of CPW and the relevant federal land management agency, if applicable, including recommended or final federal stipulations and conditions of approval.

(6) Conditions of Approval.

- A.** If the Director agrees that the conditions of approval or denial as recommended by CPW are necessary and reasonable to Avoid, Minimize, or Mitigate Adverse Impacts to Wildlife Resources, the Director will incorporate CPW's recommended conditions into the Director's Recommendation on an Oil and Gas Development Plan, Form 2A, or CAP.
- B.** The Director will not incorporate conditions of approval to Avoid, Minimize, or Mitigate Adverse Impacts to Wildlife Resources into the Director's Recommendation without consent of the affected Surface Owner. This provision does not apply to conditions of approval to Avoid, Minimize, or Mitigate Adverse Impacts to Wildlife Resources that do not directly impact the affected Surface Owner's property or use of that property including, but not limited to, off-site compensatory mitigation requirements.
- C.** If the Director determines that any conditions of approval or denial as recommended by CPW are not necessary to Avoid, Minimize, or Mitigate Adverse Impacts to Wildlife Resources, the Director will explain the grounds for the disagreement in the Director's Recommendation.
- D.** The Commission will determine whether to follow CPW's recommendation when making a final decision to approve or deny an Oil and Gas Development Plan or CAP.

(7) Notification of Decision to Consulting Agency. Where consultation occurs, the Director will provide the Director's Recommendation to CPW on the same day that it posts the decision to the Commission's website pursuant to Rule 306.c. CPW may petition the Commission to review the Director's Recommendation.

f. Consultation with CDPHE.

(1) When Consultation Will Occur.

- A.** The Director will consult with CDPHE if:
 - i.** At any time during the Local Government consultation and comment period, a Local Government requests the participation of CDPHE in the Director's consideration of an Oil and Gas Development Plan or CAP based on concerns regarding public health, safety, welfare, or impacts to the environment; or
 - ii.** An Operator requests a variance from the Commission pursuant to Rule 502 from a provision of Rules 303, 304, 314, 408.e, 411, 426, 427, 604, 615, 801, 802, 803.g, 803.h, 806.c, or the Commission's 900 Series Rules as part of an Oil and Gas Development Plan, Form 2A, CAP, or UIC Aquifer exemption application.
- B.** The Director may request consultation about any Oil and Gas Development Plan or CAP if the Director reasonably believes that consultation with the CDPHE would assist the Director in understanding the potential risks to public health, safety, welfare, or the environment.
- C.** The Director will consult with CDPHE if CDPHE requests consultation.
- D.** Notwithstanding the foregoing, the requirement to consult with CDPHE may be waived by CDPHE at any time.

(2) Procedure for Consultation.

- A.** The time period for consultation with CDPHE will begin at the start of the Rule 303.d.(1) public comment period, or when an Operator requests a variance from a Rule listed in Rule 309.f.(1).A.ii. If the public comment period is extended by the Director or the Commission, then the CDPHE consultation period may also be extended for the same amount of time that the public comment period is extended. Following conclusion of the initial consultation period, the Director may reopen a new consultation period with CDPHE if information pertaining to the Oil and Gas Development Plan or CAP changes or new evidence arises related to the public health or environmental impacts of the Oil and Gas Development Plan or CAP. The Director may extend the consultation period by 60 days upon the request of CDPHE if additional time is necessary to avoid, minimize, or mitigate adverse environmental impacts.
- B.** The consultation required by this Rule 309.f will focus on identifying potential impacts to public health, safety, welfare, or the environment from activities associated with the proposed Oil and Gas Development Plan or CAP, and development of conditions of approval or other measures to avoid, minimize, or mitigate those potential adverse impacts.
- C.** The consultation process may include, but is not limited to:
 - i.** Review of the relevant Oil and Gas Development Plan or CAP application, variance request, Well-density application, or draft Commission regulation;
 - ii.** Discussions with the Relevant Local Government(s) and Proximate Local Government(s) to better understand the Local Governments' concerns;
 - iii.** Discussions with the Commission, Operator, Surface Owner, Surface Owner's tenant, emergency responders, School officials, hospital administrators, Public Water System administrators, or any other potentially Affected Person; and
 - iv.** Review of public comments.

(3) Results of Consultation.

- A.** As a result of consultation called for by this Rule 309.f, CDPHE may make written recommendations to the Director about conditions of approval necessary and reasonable to protect public health, safety, welfare, or the environment. Such recommendations may include, but are not limited to, monitoring requirements or Best Management Practices. CDPHE may also recommend that the Commission deny an Oil and Gas Development Plan or CAP if necessary and reasonable to protect public health, safety, welfare, or the environment. Where applicable, CDPHE may also make written recommendations about whether a variance request should be granted or denied and the reasons for any such recommendations.
- B. Standards for Consultation and Director Decision.** If the Director agrees that the conditions of approval recommended by CDPHE are necessary and reasonable to protect public health, safety, welfare, or the environment, the Director will incorporate CDPHE's recommended conditions into approvals of an Oil and Gas Development Plan or CAP. If the Director determines that any conditions of approval recommended by CDPHE are not necessary and reasonable to protect public health, safety, welfare, or the environment, the Director will explain the grounds for the disagreement in the Director's Recommendation. The Commission will determine whether to follow CDPHE's recommendation when making a final decision to approve or deny an Oil and Gas Development Plan or CAP.

- C. Notification of Decision to Consulting Agency.** Where consultation occurs, the Director will provide the Director's Recommendation to CDPHE on the same day that it announces the decision. CDPHE may petition the Commission to review the Director's Recommendation.

g. Public Water Systems.

- (1) The Operator will engage in a Formal Consultation Process with all Public Water Systems that receive notice pursuant to Rule 303.e.(1).H, unless the Public Water System waives its right to consultation.
- (2) **Groundwater Monitoring.** Among other topics, consultations pursuant to Rule 309.g will address whether groundwater monitoring should occur pursuant to Rule 411.b.(4).B.

310. SUSPENDING APPROVED OIL AND GAS DEVELOPMENT PLANS

The Director may suspend an approved Oil and Gas Development Plan or any associated Drilling and Spacing Units, Form 2As, or Form 2s if the Director has reasonable cause to believe that information submitted on an application was materially incorrect. An Operator may petition the Commission to review the Director's decision. The Commission will hear the petition at its next regularly scheduled hearing.

311. EXPIRATION

- a. Except as otherwise specified by Rule 314.b.(2), Oil and Gas Development Plans are valid for 3 years. The following expirations will occur 3 years from the approval date of the Oil and Gas Development Plan:
 - (1) If drilling operations have not commenced for a permitted Well, the Form 2 for the undrilled Well will be null and void.
 - (2) If drilling operations have not commenced at any Wells on an Oil and Gas Location, the Form 2A(s) for that Oil and Gas Location, any associated Production Facilities designed to serve only that Location, and the associated Form 2s will be null and void;
 - (3) If drilling operations have not commenced for any permitted Well in a Drilling and Spacing Unit, the Drilling and Spacing Unit order will be vacated, and any associated Form 2As and Form 2s will become null and void; or
 - (4) If drilling operations have not commenced for any permitted Well subject to an Oil and Gas Development Plan, the Oil and Gas Development Plan will expire, the Drilling and Spacing Unit orders will be vacated, and the associated Form 2As and Form 2s will be null and void.
- b. **Extensions.** The Commission or Director will not approve extensions for an Oil and Gas Development Plan, a Drilling and Spacing Unit, a Form 2A, or a Form 2.
- c. **Applications and Refile Forms After Expiration.** Oil and Gas Development Plans, Drilling and Spacing Unit applications, Refile Form 2As, and Refile Form 2s may be filed within 60 days prior to expiration or anytime following expiration and are subject to the Commission's Rules in effect at the time of submission.
- d. **Remedy.** Any built Oil and Gas Location for which a Form 2A expires pursuant to Rule 311.a will be subject to final Reclamation pursuant to the Commission's 1000 Series Rules.

312. SUBSEQUENT OPERATIONS ON EXISTING WELLS

- a. The Operator will submit and obtain the Director's approval of a Form 4 before conducting any subsequent Well operations involving heavy equipment, except for routine Well maintenance.
- b. **Verbal Approval.** If during the course of the subsequent operations or routine Well maintenance the Operator determines that additional subsequent operations involving heavy equipment that are not routine maintenance are necessary, the Operator may obtain verbal approval from the Director to conduct the subsequent operations. If the Operator obtains verbal approval from the Director, the Operator will submit a Form 4 to obtain written approval from the Director within 7 days.
- c. **Information Requirements.** The Form 4 will describe the details of the proposed work.
- d. **Approval of Subsequent Well Operations.** The Director may approve a Form 4 that complies with all requirements of the Commission's Rules, and protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
 - (1) The Director may add any conditions of the approval to a Form 4 that are necessary and reasonable to ensure compliance with all requirements of the Commission's Rules, or to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
 - (2) The Director will review the Oil and Gas Location where the Well is located to ensure that necessary and reasonable conditions of approval are applied to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
- e. **Notice Requirements.** An Operator will provide notice of operations covered by Rule 312.a to the Surface Owner pursuant to Rule 412.a.(4).

313. FORM 20, PERMIT TO CONDUCT SEISMIC OPERATIONS

- a. **Submitting Form 20.** Operators, or, if applicable, seismic survey contractors, will submit and obtain approval of a Form 20, Permit to Conduct Seismic Operations prior to commencement of seismic operations, including shothole drilling and recording operations.
- b. **Information Requirements.** The Form 20 will include the following:
 - (1) A map in a suitable size and scale to show the proposed project boundary, energy source locations, and receiver locations with sections, townships and ranges, county and municipal boundaries, and High Priority Habitat.
 - (2) GIS data for the proposed project boundary, energy source points, and receiver locations in a format approved by the Director.
 - (3) Any Relevant Local Government permits, as required in Rule 313.c.
 - (4) Any traffic control plan, as required in Rule 313.d.
 - (5) Any plan or measures to protect and minimize impacts to Wildlife Resources developed in coordination with CPW.
 - (6) Reclamation plan.

- c. **Local Government Permits.** Operators will obtain all required Relevant Local Government permits prior to commencing seismic operations. Operators will submit copies of the Relevant Local Government permits with their Form 20 applications.
- d. **Traffic Control and Load Limits.** If the Relevant Local Government approval fails to address traffic control and load limits then Operators will include the following information in traffic control plans submitted with their Form 20 applications:
 - (1) If the seismic operations will utilize vibroseis units, confirmation that the Relevant Local Government allows vibroseis units to travel and operate on the public roadways identified in the survey area;
 - (2) The load limits of all public roads within the survey area; and
 - (3) A detailed traffic control plan for any activity in a public right-of-way.
- e. **Director's Decision.**
 - (1) The Director may approve the Form 20 if it complies with the Commission's Rules and protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
 - (2) The Director may deny the Form 20 if it does not comply with the Commission's Rules or if it does not adequately protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.
- f. **Changes to a Form 20.** Operators or seismic survey contractors will file any proposed change to an approved Permit to Conduct Seismic Operations on a Form 20.
- g. **Form 20 Expiration.** An approved Form 20 will expire 6 months from the date of approval.
- h. **Refile Form 20.** Operators or seismic survey contractors may submit a Refile Form 20 for approval of a previously permitted seismic project that was not conducted during the valid term of the previously approved Form 20. The Refile Form 20 will comply with Rule 314.
- i. Operators will provide a copy of the approved Form 20 to the Relevant Local Government.

314. COMPREHENSIVE AREA PLANS

- a. **Purpose of Comprehensive Area Plans.**
 - (1) The Commission intends for Comprehensive Area Plans ("CAPs") to facilitate evaluating and addressing cumulative impacts from oil and gas development in a broad geographic area by identifying plans for one or more Operators to develop Oil and Gas Locations within a region while avoiding, minimizing, and mitigating impacts to public health, safety, welfare, the environment, and wildlife resources in the region through systematic planning of infrastructure location, Best Management Practices, and centralizing facilities.
 - (2) The Commission intends to create incentives for Operators to develop CAPs by conveying an exclusive right to operate in the area covered by the CAP for an appropriate duration of time.
 - (3) The Commission encourages Operators to develop CAPs. The Commission may direct the Director to meet with an Operator to discuss whether submission of a CAP is appropriate.

The Director may request a meeting with an Operator to discuss whether submission of a CAP is appropriate pursuant to Rule 303.a.(8).

b. Rights Conveyed.

- (1) If the Commission approves a CAP, the approved CAP will convey the exclusive right to develop the oil and gas formation or formations that are the subject of the CAP within the CAP's geographic boundaries for the duration of the CAP as specified by Rule 314.c.
 - (2) Approved Oil and Gas Development Plans, Drilling and Spacing Units, Form 2As, and Form 2s within an approved CAP will not expire until the CAP expires pursuant to Rule 314.c, but will expire at the time the CAP expires.
 - (3) If the Commission approves a CAP, the Operator need not separately evaluate cumulative impacts for each individual Oil and Gas Development Plan proposed within the CAP, as would otherwise be required by Rule 303.a.(5).
 - (4) Expedited review of associated Oil and Gas Development Plans pursuant to Rule 306.d.
 - (5) Preliminary siting approval of future Oil and Gas Locations within the CAP if the Operator meets the informational requirements of Rule 314.e.(11) and the consultation requirements of Rule 314.f.(4).A.iii.
 - A. An Operator seeking preliminary siting approval through a CAP will submit the information identified in Rule 314.e.(11) as part of its CAP application.
 - B. If an Operator receives preliminary siting approval, the Operator need not submit an alternative location analysis pursuant to Rule 304.b.(2) as part of the Form 2A application for any associated Form 2A applications.
 - C. If an Operator receives preliminary siting approval, as an attachment to the Form 2A application for any associated Form 2A applications, the Operator will submit a description of any changes to the surrounding land use, or future land use changes contemplated in a Local Government planning document, from between the time the CAP was approved and the time the Form 2A is submitted.
 - D. Preliminary siting approval pursuant to Rule 314 does not guarantee that the Commission will ultimately approve any associated Form 2As within an approved CAP.
 - (6) Approval of a CAP does not constitute approval of an Oil and Gas Development Plan, Drilling and Spacing Unit, Form 2A, or Form 2. Operators will submit all Oil and Gas Development Plans, Drilling and Spacing Unit applications, Form 2As, and Form 2s as ordinarily required by the Commission's Rules for all locations and Wells within an approved CAP. However, during the course of consultation about a CAP pursuant to Rule 314.f.(4), a consulting entity may waive future consultations for subsequently submitted Oil and Gas Development Plans and other permits that are associated with the CAP.
- c. Duration.** Approved CAPs will expire 6 years after the date the Commission approves the CAP, unless the Commission issues an Order to approve a different duration or extend the duration pursuant to Rules 314.c.(1) & (2).
- (1) **Initial Approval for Longer Duration.** The Commission may approve a different duration based on a request in the CAP application materials. Such a request will include:

- A. A reasonable and consistent development schedule for fully developing minerals subject to the CAP;
- B. A reasonable and consistent development schedule for building appropriate infrastructure and a description of how that infrastructure will facilitate avoiding, minimizing, or mitigating potential adverse impacts to public health, safety, welfare, the environment, or wildlife resources, including but not limited to emissions reductions strategies;
- C. A description of why the proposed duration is consistent with any long-term land use planning documents for each Relevant Local Government; and
- D. A description of any planned mitigation for adverse impacts to Wildlife Resources within the boundaries of the proposed CAP.

(2) Extensions.

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

d. Submission Procedure.

- (1) One or more Operators (collectively, the “Operator”) may apply for a CAP at any time by submitting the application materials specified in Rule 314.e electronically pursuant to Rule 503.g.(8).
- (2) The Operator will coordinate with the Director and submit all information necessary for the Director and Commission to fully evaluate the CAP’s cumulative impacts on public health, safety, welfare, the environment, and wildlife resources.
- (3) At any time after a CAP application is submitted, the Director may request any information necessary to review the CAP application. The Operator will provide all requested information before the Director issues the Director’s Recommendation.
- (4) When the Director has obtained all information necessary to fully review the CAP’s cumulative impacts on public health, safety, welfare, the environment, and wildlife resources, the Director will make a completeness determination.
- (5) **Requests to Stay Other Applications.** An Operator may include a request for preliminary relief in its CAP application that the Commission put a hold on taking final action on Oil and Gas Development Plan and Drilling and Spacing Unit applications related to minerals subject to the proposed CAP while the Commission and Director conduct their review of the CAP application.

- A. Such a request will include the mineral ownership information required pursuant to Rule 314.e.(9).
 - B. If the CAP application includes such a request for relief, the Secretary will notice the request for relief for expedited hearing pursuant to Rule 503.a at the time the Director issues the completeness determination.
 - C. Mineral Owners within the proposed CAP may file a petition protesting the requested relief pursuant to Rule 507.
- e. **Informational Requirements for Comprehensive Area Plan.** At a minimum, the Operator will submit the following materials as components of its CAP application:
- (1) **Contact Information.**
 - A. The name, telephone number, and e-mail address for the primary contact person about the CAP for each Operator.
 - B. The name, telephone number, and e-mail address of every Relevant Local Government within the CAP's boundaries.
 - C. The name, telephone number, and e-mail address for all Local Governments with land use authority within and within 2,000 feet of the CAP's boundaries.
 - D. Contact information for all persons who will receive notice pursuant to Rule 314.f.(1).C.
 - (2) **Fees.** Payment of the full filing and service fee required by Rule 301.d.
 - (3) **Maps.**
 - A. A topographic map in a suitable size and scale for the Director to conduct a review showing the area proposed for the CAP and proposed Oil and Gas Locations.
 - B. Maps or descriptions of all publicly maintained roads, Operator-proposed haul routes, and proposed access road locations.
 - C. Maps or descriptions of proposed Gathering Line and Flowline infrastructure.
 - D. Maps or descriptions of proposed utility lines.
 - E. A description of plans for electrification of proposed Oil and Gas Operations.
 - F. One or more detailed maps showing all High Priority Habitats and federally designated critical habitats for threatened and endangered species within the CAP's boundaries. Operators will rely upon best available information when assessing wildlife habitat within the CAP's boundaries and may provide supplemental site-specific published reports or wildlife surveys.
 - G. One or more detailed maps generally delineating existing Building Units within the proposed CAP's boundaries and specifically delineating all High Occupancy Building Units and Designated Outside Activity Areas.
 - H. One or more detailed maps delineating surface ownership within the proposed CAP's boundaries.

- I. One or more detailed maps showing characteristics of known Groundwater within the proposed CAP's boundaries, including but not limited to depth of the water table, depths of known Groundwater formations, and characteristics of the Groundwater including salinity.
 - J. One or more maps identifying areas defined as Disproportionately Impacted Communities.
 - K. One or more detailed maps showing all riparian areas, Floodplains, Waters of the State, and Public Water System facilities within the proposed CAP boundaries.
 - L. A map showing existing, permitted, and proposed Oil and Gas Locations that are within the proposed CAP boundaries but not subject to the proposed CAP.
- (4) **GIS Data.** GIS polygon data to describe the CAP's external boundaries.
 - (5) **Density of Wells.** The proposed subsurface density of Wells within the boundaries of the CAP.
 - (6) **Consolidation of Oil and Gas Locations.** The proposed density of Oil and Gas Locations within the boundaries of the CAP (reported in Oil and Gas Locations per section). This should include a narrative proposal, with maps and appropriate supporting documentation, demonstrating the Operator's plan to consolidate Oil and Gas Locations to the maximum extent possible within the boundaries of the CAP.
 - (7) **Timing of Operations.** A narrative proposal, explaining the anticipated timing for building infrastructure and developing proposed Oil and Gas Locations.
 - (8) **Infrastructure Planning.** A narrative proposal, with appropriate supporting documentation, demonstrating the Operator's plan to consolidate infrastructure within the CAP, the timeline for installing any new infrastructure relative to the planned construction dates for the proposed Wells, and a discussion of any approvals necessary for the infrastructure to be built.
 - (9) **Mineral Rights.** A map and narrative that:
 - A. Demonstrates the location of the minerals the Operator owns or has secured the consent of mineral Owners to develop; and
 - B. Describes the percentage of minerals the Operator owns or has secured the consent of mineral Owners to develop.
 - (10) **Evaluating and Addressing Cumulative Impacts.** The Operator will provide quantitative and qualitative data to evaluate incremental adverse impacts and beneficial contributions to each resource listed below that are likely to be caused by Oil and Gas Operations associated with the proposed CAP. Data will include a summary of Best Management Practices or other measures the Operator will employ to avoid, minimize, and mitigate impacts to each resource.
 - A. **Air Resources.** A quantitative evaluation of the projected incremental increase in emissions of the pollutants listed below, estimated for each year of and five years after the proposed CAP's duration. The emissions estimate will include both stationary and mobile sources of emissions during both pre-production activities and emissions during full production. The evaluation will include any emissions reductions due to the Operator's Plugging and Abandonment of existing oil and gas Wells within the CAP boundaries for the year when the plugging operation occurs.

- i. Oxides of Nitrogen (NO_x);
- ii. Carbon monoxide (CO);
- iii. Volatile Organic Compounds (VOCs);
- iv. Methane (CH₄);
- v. Ethane (C₂H₆);
- vi. Carbon dioxide (CO₂); and
- vii. Nitrous oxide (N₂O).

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

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

C. Water Resources.

- i. For any CAP that includes a proposed Oil and Gas Location that will be listed as a sensitive area for water resources or is within 2,640 feet of a surface Water of the State, the total planned on-location storage volume of (measured in Barrels (bbls)) of:

- aa.** Oil;
 - bb.** Condensate;
 - cc.** Produced water; and
 - dd.** Other volumes of stored hydrocarbons, Chemicals, or E&P Waste Fluids.
- ii.** The Operator will identify and evaluate potential contaminant migration pathways and likely distances from Oil and Gas Locations that may be proposed within the CAP to the nearest downstream riparian corridors, wetlands, and surface Waters of the State. If the Operator identifies any such contaminant migration pathways:
 - aa.** The Operator will provide a qualitative evaluation of the baseline conditions in the riparian corridor, wetland, or surface Water of the State; and
 - bb.** Identify Best Management Practices to avoid, minimize, or mitigate potential adverse impacts to the identified riparian corridors, wetlands, and surface waters of the State.
- iii.** A qualitative evaluation of potential impacts to, and a summary of Best Management Practices or other measures to avoid, minimize, or mitigate adverse impacts to the following categories of Public Water System intakes and wells within the boundaries of the CAP:
 - aa.** Surface water supply areas as defined in Rule 411.a.(1);
 - bb.** Public Water System supply wells that are groundwater under the direct influence of surface water wells or Type III wells as defined in Rule 411.b.(1); and
 - cc.** Any surface water Public Water System intakes within 15 stream miles downstream of the CAP boundaries.
- iv.** A qualitative evaluation of the potential for erosion and sedimentation to adversely impact water quality, and a summary of Best Management Practices or other measures to avoid, minimize, or mitigate adverse impacts.
- v.** The total volume of water the Operator plans to use (measured in bbls), an inventory of the sources from which the Operator intends to obtain the water, and estimated volumes, from each of the following sources:
 - aa.** Freshwater from any Groundwater source;
 - bb.** Freshwater from any lake or stream source;
 - cc.** Freshwater from any domestic water source;
 - dd.** Reclaimed water from a municipal source; and
 - ee.** Recycled or reused E&P Waste.

- vi. A qualitative evaluation of the Operator's plan for recycling or disposal of Flowback water and produced water, and the estimated volumes (measured in bbls) of each planned method.

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

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

E. Soil Resources.

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

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

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

G. Disproportionately Impacted Communities. The census block groups of any Disproportionately Impacted Communities within the CAP.

- (11) **Siting Information.** If the Operator seeks preliminary siting approval pursuant to Rule 314.b.(5), the Operator will submit the following information:

- A. Alternative location analyses that meet the criteria of Rule 304.b.(2).C for each proposed future Oil and Gas Location within the CAP.
 - B. For each proposed future Oil and Gas Location within the CAP, the information required by Rules 304.b.(3), (4), (7), & (8).
 - C. Either:
 - i. The applicable long-term or comprehensive land use plan for each Local Government within the CAP, that identifies current and planned future land uses for all areas within the CAP for the proposed full duration of the CAP; or
 - ii. Certification that each Relevant Local Government agrees with each proposed Oil and Gas Location within its boundaries.
 - D. An Operator seeking preliminary siting approval pursuant to Rule 314.b.(5) will consult with the Director during the course of the Director's review of the CAP application to determine whether the informational and plan requirements of Rules 304.b. and 304.c are substantially satisfied by the information contained in the CAP.
 - E. An Operator seeking preliminary siting approval pursuant to Rule 314.b.(5) will provide notice of the CAP application to Building Unit owners and tenants within 2,000 feet of each proposed Oil and Gas Location.
- (12) **Completeness Certification.** A certification that the Operator has submitted all materials required by this Rule 314.e.
- f. **Public Review Process.**
- (1) **Notice.**
- A. When the Director issues a completeness determination pursuant to Rule 314.d.(4), the Director will post the CAP application and all supporting materials to the Commission's website. The website posting will provide:
 - i. The date by which public comments must be received to be considered; and
 - ii. The mechanism for the public to provide comments.
 - B. **Confidentiality.** If the Operator designates any portion of its CAP application as "confidential" pursuant to Rule 223, then the Director will post only the redacted version when the CAP is posted to the Commission's website.
 - C. Within 5 days of the Director issuing the completeness determination, the Operator will provide notice to the following:
 - i. All Owners of minerals that would be developed under the CAP;
 - ii. All Surface Owners of the Operator's proposed Oil and Gas Locations;
 - iii. All Local Governments within the CAP's boundaries;
 - iv. All Local Governments within 2,000 feet of the CAP's boundaries;
 - v. CDPHE;

- vi. CPW;
- vii. The Colorado State Land Board (if it owns any minerals or surface estate within the CAP);
- viii. The appropriate federal agency (if any federal entity owns minerals or surface estate within the CAP);
- ix. The Southern Ute Indian Tribe (if the CAP involves any minerals within the exterior boundary of the Tribe's reservation where both the surface and oil and gas estates are owned in fee by persons or entities other than the Tribe);
- x. All High Occupancy Building Units, Child Care Centers, and the School Governing Body of any Schools located within the CAP's boundaries; and
- xi. All Public Water Systems that operate facilities within the CAP's boundaries.

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

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

(2) Comments.

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

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

- A. Timing of Meeting.** The informational meeting will be held during the open public comment period, with sufficient time for the attendees to make comment on the CAP application based on information received. The meeting will be held at a date and time reasonable for most invitees to attend.
- B. Language Access.** All written and oral information provided at a public meeting will also be provided in all languages spoken by 5% or more of the population in any census block groups within or adjacent to the proposed CAP.
- C. Content of Meeting.** The Operator will provide at a minimum the following information:

- i. The schedule of operations;

D. Federal Government. For proposed CAPs that include federally-owned or managed surface or mineral estate, the Director will engage in a Formal Consultation Process with the applicable federal agency or agencies, unless the agency or agencies waives their right to consultation.

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

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

- A.** The Director has fully reviewed the CAP and all supporting application materials and has obtained all information necessary to evaluate the proposed operations and their potential cumulative impacts on public health, safety, welfare, the environment, and wildlife resources.
- B.** The public comment period has ended, including conducting a public meeting pursuant to Rule 314.f.(3), and the Director has considered all substantive public comments received.
- C.** The Director has completed the Formal Consultation Process with all Local Governments identified in Rule 314.f.(4).A, CPW, CDPHE, and any federal agency identified in Rule 314.f.(4).D, unless any such entity waives its right to consultation.

(2) Director's Recommendation.

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

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

B. Denial. If the Director determines that a CAP does not meet the requirements of Rule 314, or provide necessary and reasonable protections for, or minimize adverse impacts to, public health, safety, welfare, the environment, and wildlife resources, or fails to meet the requirements of the Commission's Rules, the Director may Recommend that the Commission deny the CAP.

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

- A.** The Operator;
- B.** All Local Governments within the CAP;
- C.** Local Governments within 2,000 feet of the CAP's boundaries;
- D.** CDPHE;
- E.** CPW;
- F.** The Colorado State Land Board (if it owns any minerals or surface estate within the CAP);

- G. The appropriate federal agency (if any federal entity owns minerals or surface estate within the CAP); and
 - H. Any person or entity that has provided a comment electronically pursuant to Rule 512.
- (4) **Petition for Review of the Director's Recommendation.** CPW, CDPHE, any Local Government within the CAP or Local Governments within 2,000 feet of the CAP's boundaries, and any Owners of minerals within the boundaries of the CAP may petition the Commission to review the Director's Recommendation. Petitions of the Director's Recommendation will comply with Rule 507.
 - (5) If the Director does not issue a Recommendation within 180 days of a completeness determination pursuant to Rule 314.d.(4), the Operator may move for a hearing before the Commission, Administrative Law Judge, or Hearing Officer. At such hearing, the Director will provide an explanation of the status of the Director's review of the CAP and any reasons for delay.
- h. Commission's Consideration of a Comprehensive Area Plan.**
- (1) If the Director recommends approval of a CAP, the CAP will be heard by the Commission pursuant to Rules 509 & 510.
 - (2) If the Director recommends the denial of the CAP, the Operator may petition the Director's Recommendation to the Commission. The petition will be filed and heard pursuant to Rules 507 & 510.
 - (3) **Approval.** The Commission may approve a CAP that complies with all requirements of the Commission's Rules and protects and minimizes adverse cumulative impacts to public health, safety, welfare, the environment, and wildlife resources.
 - (4) **Denial.** If the Commission determines that a CAP does not provide necessary and reasonable protections for, or minimize adverse impacts to, public health, safety, welfare, the environment, and wildlife resources, or fails to meet the requirements of the Commission's Rules, the Commission may deny the CAP. The Commission will identify in the record the basis for the denial.
 - (5) **Stay.** If the Commission determines that additional information or analysis is necessary for it to make a decision to approve or deny a CAP, it will issue an order staying consideration of the CAP for further consideration until the Director or Operator can provide the Commission with the additional information or analysis necessary to consider the CAP. The Commission may set or extend reasonable deadlines for the Director or Operator to provide additional information or analysis to the Commission.
 - (6) **Final Agency Action.** The Commission's decision to approve or deny a CAP will constitute final agency action. The Commission's decision to stay a CAP for further consideration will not constitute final agency action.
 - (7) **Changes to an Approved CAP.** Changes to an approved CAP will be approved or denied by the Commission, after appropriate notice, consultation pursuant to Rule 314.f.(4) and Director review. The Director will have discretion to determine appropriate notice and consultation requirements based on the scale and nature of the changes.