



## COGCC OPERATOR GUIDANCE

### RULE 304.D. - LESSER IMPACT AREAS

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#### Document Control:

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| Created Date:   | February 18, 2021 |
| Document Owner: | OGLA Staff        |

#### Rule Citation

304.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.

#### Purpose of Rule

The Commission recognizes that not all proposed oil and gas locations have equivalent resources or impacts. Therefore, the Lesser Impact Area exemption option exists as an avenue separate from the Rule 502 Variance process for an Operator to request an exemption from providing information required by Rule 304.b. and/or a plan required by Rule 304.c., based on the site specific elements for a given proposed location where different resource concerns may be limited or nonexistent.

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### Rule 304.d. Guidance

1. An Operator requests a Rule 304.d. Lesser Impact Area exemption by doing the following:
  - a. Form 2A, Variances & Exemptions tab: check the boxes for the Rule 304.b. informational requirements and/or the Rule 304.c. plans that you are seeking exemptions from.
  - b. Form 2A, Plans tab: do NOT upload a Plan that you are seeking an exemption from providing.
  - c. Form 2A, Attachments tab: attach a LESSER IMPACT AREA EXEMPTION REQUEST to the Form 2A.
2. The LESSER IMPACT AREA EXEMPTION REQUEST attachment will list the following for each exemption being requested:
  - a. Which required 304.b. informational requirement or required 304.c. plan you are seeking an exemption from.
    - i. For example: Rule 304.c.(3) Light Mitigation Plan.
  - b. What the resource(s) or resource concern the rule describes. Many of the rules state a specific resource or resource concern, while others may not. Ask COGCC Staff if questions arise.
    - i. For example: if an Operator was seeking an exemption from the Rule 304.c.(14) Topsoil Protection Plan, the resource of concern is “Topsoil”.
    - ii. For example: if an Operator was seeking an exemption from the Rule 304.b.(8) Geographic Information System (“GIS”) Data, the resource of concern is not clearly listed in the rule, but providing the information gives context regarding possible impacts to different resource categories that include, but are not limited to: “Soils, Plant Communities, High Priority Habitats, Wildlife Resources, and Water Resources”.
  - c. The circumstance leading to the exemption, which is either:
    - i. the impacted resource is not present; or
    - ii. impacts to the resource will be so minimal as to pose no concern.
  - d. A description of how the resource is not present and/or how impacts to the resource will be so minimal as to pose no concern.
  - e. All exemptions being requested will be on a single LESSER IMPACT AREA EXEMPTION REQUEST attachment.
3. The following is an example of two different exemption requests for the same rule with different exemption circumstances:

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Exemption being requested from: Rule 304.c.(3) Light Mitigation Plan.

Resource Concern: Lighting impacts to people and wildlife.

Exemption Circumstance: the impacted resource is not present.

Description: An onsite survey and a review of available map data indicated the closest building unit is over 5280 feet from the edge of the Working Pad surface. Additionally, there are no High Priority Habitats within one mile of the location and an onsite wildlife survey conducted 30 days prior to submitting the OGDG found no species of concern within the oil and gas location boundary.

Exemption being requested from: Rule 304.c.(3) Light Mitigation Plan.

Resource Concern: Lighting impacts to people and wildlife.

Exemption Circumstance: impacts to the resource will be so minimal as to pose no concern

Description: An onsite survey and a review of available map data indicated there is one residential building unit located 1910' west of the working pad surface. The next residential building unit within one mile is 4385' west of the working pad surface. There is a steep hill (~700' in elevation gain and loss) between the proposed oil and gas location and the nearest residential building unit in the next valley over. Based on this topography it is unlikely on-site lighting will adversely affect either of the nearest residential building units. Additionally, there are no High Priority Habitats within one mile of the location and an onsite wildlife survey conducted 30 days prior to submitting the OGDG found no species of concern within the oil and gas location boundary.

The Operator would then repeat the four points for each exemption being requested, and so on until all sought exemptions are listed.

### General Notes

1. Each exemption request will be reviewed on a site-by-site basis given the unique characteristics of each proposed location.
2. Operators are encouraged to reference drawings and other documents attached to the Form 2A that support or provide additional detail for their LESSER IMPACT AREA EXEMPTION REQUEST attachment.
3. If needed, an Operator may choose to provide figures or exhibits as part of their LESSER IMPACT AREA EXEMPTION REQUEST attachment if they will aid in the determination of granting a Lesser Impact Area exemption.

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4. The LESSER IMPACT AREA EXEMPTION REQUEST attachment must be uploaded as a PDF, but may be in either a narrative text/Word document format or a spreadsheet format.
5. While an Operator may request exemption from submitting any of the information required by Rule 304.b, or any plan required by Rule 304.c, it is ultimately the decision of the Director to grant any exemption requested.
6. While the Director may grant an exemption from submitting any of the information required by Rule 304.b, or any plan required by Rule 304.c, 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.
7. Operators should only request exemptions from information or plans that are required. If information is not required by rule, the Operator does not need to request an exemption. For example:
  - a. Rule 304.b.(15) states: *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.*
  - b. If the proposed location is NOT within 2,000 feet of a School Facility, Future School Facility, or Child Care Center, then the Operator does NOT need to request an exemption from providing a statement because the condition requiring the statement was not met.
8. If substantially equivalent information or plans were developed through a local permitting process per Rule 304.e, and the Operator wishes to submit that information in lieu of information or plans required by Rule 304.b or 304.c, that substantially equivalent information should NOT be included in any LESSER IMPACT AREA EXEMPTION REQUEST.