



## COGCC OPERATOR GUIDANCE CPW CONSULTATION PROCESS FOR OPERATIONS IN WILDLIFE HABITATS AT EXISTING OIL AND GAS LOCATIONS

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### Document Control:

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### Rule Citation

Multiple Rules provide requirements for compliance when proposing operations on existing Locations within wildlife habitats. For the full list and citation, please see Appendix 1 below. For quick reference, please see the following Rules:

- 308.c - Administrative Approval or Denial of the Form 2
- 309.e - Consultation with Colorado Parks and Wildlife
- 312.d - Approval of Subsequent Well Operations
- 435.a - Form 6, Notice of Intent to Abandon
- 913.b.(5).B.v. - Site Investigation, Remediation and Closure
- 1202 - Operating Requirements

### Purpose of Guidance

New or amended Oil and Gas Locations that are permitted through COGCC's Oil & Gas Development Plan (OGDP) process (effective January 15, 2021) require a consultation with Colorado Parks and Wildlife (CPW) when Locations or their proposed access roads, utility corridors, and/or pipeline corridors fall within High Priority Habitats (HPH) and other areas known for wildlife resources. This guidance describes operations proposed on existing Locations that **do not require an OGDP**, but may require a consultation with CPW if wildlife resources or habitat may be impacted. Generally, any operations involving heavy equipment, such as drilling, completions, interim reclamation, plugging, or remediation projects, may require a consultation with CPW, depending on the type of operations, the timing of operations, and to some extent, the type of habitat or wildlife resources that may potentially be impacted.

### Guidance

Best practice requires that when operations are proposed on existing Locations within wildlife habitats or within close proximity to wildlife receptors, Operators should evaluate two primary concerns: what type of habitat is it, and what are the

operations proposed (ie, what Form must be submitted and approved in advance of commencement of operations).

### **Types of Habitats**

Wildlife habitats that may require consultation with CPW for work activities at existing Oil and Gas Locations include:

- Rule 1202.c.(1) HPH (where permitted);
- Rule 1202.d HPH;
- Rule 309.e consultation habitats; and
- Federally designated critical species habitats.

These habitat designations may be reviewed as various layers on [COGCC's Interactive Online GIS map](#), and may be periodically updated through formal rulemaking.

### **Types of Operational Work (ie, Which Form is Required)**

If operational work is continuously ongoing after a consultation with CPW, additional consultation may not be required. In cases where no significant work has recently occurred, and subsequent operations are being proposed that may disturb wildlife resources, consultation may be required. The types of operations that may require CPW consultation include:

- Drilling a well, which requires the approval of a Form 2, Application for Permit to Drill. Consultation is required for all "Refile" Form 2s, and may be required for New or Amended Form 2s if significant time has elapsed since the Location was reviewed by COGCC Staff (eg, since the Form 2A was approved);
- Subsequent work requiring approval of a Form 4, Sundry Notice, as described in Rule 312 and further clarified in COGCC Guidance;
- Plugging a well, which requires a Form 6, Notice of Intent to Abandon; and
- Any work that requires a Form 27, Site Investigation and Remediation Workplan, for non-emergency work (see notes below).

### **CPW Consultation and Form Submittal Process**

The process for CPW consultation is as follows:

1. Operator will review the Oil and Gas Location for which the Form 2, Form 4, Form 6, or Form 27 is being submitted and use the COGCC Interactive Online GIS Map and the U.S Fish and Wildlife ECOS website to determine if it is located within a wildlife habitat that requires consultation;
2. If the Oil and Gas Location is within wildlife habitat that requires consultation, the Operator will contact CPW prior to submitting the Form;
  - a. The Operator will propose work outside any timing stipulations applicable to the species in question;

- b. The Operator and CPW will develop and agree upon appropriate Best Management Practices (BMPs) to protect and minimize adverse impacts to wildlife and wildlife habitat;
  - c. The Operator will document their commitment to those agreed-upon BMPs in an email to CPW;
3. The Operator will provide a comment on the Submit tab of the Form 6 or Form 27, or a BMP on the Form 2 or Form 4, providing the agreed-upon BMP language. The Operator will also upload CPW's written concurrence as an attachment to the Form;
4. On a Form 6, COGCC Oil and Gas Location Assessment (OGLA) staff will apply the BMP as a Condition of Approval (COA). For a Form 27, COGCC Environmental Protection Specialists will apply the BMP as a COA;
5. If the outcome of consultation is that more discussion is needed immediately prior to work, COGCC OGLA staff will add an additional COA;
  - a. This could include cases where the operations will encroach upon the start or end date of a timing window or where wildlife surveys may be needed prior to commencing operations;
  - b. This could also include provisions for addressing the HPH described in Rule 1202.c;
6. COGCC OGLA staff will confirm (through the review of the Operator's documentation on the Form) that the above process was properly completed prior to approving the form. Because consultation occurred first, no further outreach from COGCC to CPW need occur and no further confirmation from CPW is necessary;
7. If the Director determines that additional CPW consultation is necessary or the operator didn't consult with CPW prior to Form 2, Form 4 or Form 6 submittal, COGCC will initiate a formal consultation process with CPW and the Operator on a site-specific basis.

## **General Notes**

### **Facility Closure and Cut and Cap Operations**

For facility closure and cut & cap activity associated with plugging and abandonment for which a Form 6 was submitted as described above, the Operator will add a comment on the Form 27 that informs COGCC that the consultation was complete, and provide a Form 6 reference document number. While emergency operations and spill or release response are allowed to proceed without prior consultation, site investigation and remediation, including as part of facility closure, is subject to prior consultation in all 1202.c.(1) habitats at all times. If the consultation completed as part of the Form 6 consultation included the facility closure site investigation and remediation, then the Operator will note that on their Form 27.

## Form 2 Reviews

Per Rule 1202.c.(2).B.ii, the operator must consult with CPW prior to conducting non-emergency workovers, including uphole recompletions in the Rule 1202.c.(1) HPHs. Other types of well work are not allowed in the Rule 1202.c.(1) HPHs except as specified in Rule 1202.c.(2).

The CPW consultation process in this guidance also applies to Rule 1202.d HPHs, Rule 309.e consultation habitats, and within Federally designated critical habitat. The process always applies to refile Form 2s and may also apply to Form 2s that are not refiles where an extended period of time has elapsed between staff's previous review of the Location (ie, Form 2A approval) and the submittal of the Form 2, where HPH maps have been revised and/or conditions at the Location have significantly changed. In these cases, COGCC staff will request an updated CPW consultation prior to the Director approving the submitted Form.

## Form 4 Sundries - Rule 312 Subsequent Operations

Per Rule 1202.c, completion activities are not allowed in Rule 1202.c.(1) HPHs, except as specified in 1202.c.(2).

The CPW consultation process in this guidance also applies to Rule 1202.d HPHs, Rule 309.e consultation habitats, and within Federally designated critical habitat. This process always applies to subsequent operations at Oil and Gas Locations that were approved prior to January 15, 2021, operations where an extended period of time has elapsed between staff's previous review and submittal of the Form 4, in areas where HPH maps have been revised and/or conditions at the location have significantly changed.

## Plugging Operations

Per Rule 1202.c.(2).B.ii, the operator must consult with CPW prior to conducting non-emergency plugging operations in the Rule 1202.c.(1) HPHs. CPW has also determined that consultation is always necessary for the following non-1202.c.(1) habitats where there may be impacts from the Plugging and Abandoning (P&A) work:

Within Federally designated critical habitat

<https://ecos.fws.gov/ecp/report/table/critical-habitat.html>

Rule 1202.d (density habitats)

- (1) Bighorn sheep migration corridors and winter range
- (7) Gunnison sage grouse production area
- (9) Lesser prairie chicken focal area

309.e. (consultation habitats)

- Golden eagle active nest half mile buffer
- Bald eagle roosts
- Bald eagle nest half mile buffer
- Burrowing owl active nest site
- Lesser prairie chicken connectivity zones and estimated occupied range

CPW communicated to COGCC that additional BMPs for wildlife protection or timing stipulations will not be requested for the typical work associated with plugging and abandoning wells in certain HPH areas. This is due to the short extent and duration of the activities and the overall benefit of the P&A work. COGCC staff will place a comment on the Form 6 rather than a COA for P&A work in the following HPH areas:

1202.d.(density habitats)

- (2) Elk migration corridors, production areas, severe winter range, and winter concentration areas;
- (3) Mule deer migration corridors, severe winter range, and winter concentration areas;
- (4) Pronghorn migration corridors and winter concentration areas;
- (5) Greater sage-grouse priority habitat management areas;
- (6) Columbian sharp-tailed grouse production areas;
- (7) Greater prairie chicken production areas;
- (10) Plains sharp-tailed grouse production areas

309.e.(consultation habitats)

- Greater sage grouse general habitat management area
- Greater sage grouse undesignated habitat
- Columbian sharp tailed grouse winter range

## Helpful links

CPW's recommendations for avoidance and mitigation by species:

[https://cpw.state.co.us/Documents/Conservation-Resources/Energy-Mining/CPW\\_HPH-Map-Layers.pdf](https://cpw.state.co.us/Documents/Conservation-Resources/Energy-Mining/CPW_HPH-Map-Layers.pdf)

Map of CPW's Energy Liaisons and Land Use Specialists:

[https://cogcc.state.co.us/documents/gov/state/Energy\\_LandUse\\_Contacts.pdf](https://cogcc.state.co.us/documents/gov/state/Energy_LandUse_Contacts.pdf)

COGCC's Rule 312 Guidance for Subsequent Operations:

[https://cogcc.state.co.us/documents/reg/OpGuidance/Rule\\_312\\_Guidance\\_2021-09-21.pdf](https://cogcc.state.co.us/documents/reg/OpGuidance/Rule_312_Guidance_2021-09-21.pdf)

US Fish & Wildlife Service Environmental Conservation Online Map System:

<https://ecos.fws.gov/ecp/report/table/critical-habitat.html>

## Appendix 1 - Rule Citation

### Rule 308.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.

### Rule 309.e - Consultation with 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 adhere to the following Best Management Practices:

6. Contain Flowback and Stimulation Fluids in Tanks that are placed on a Working Pad Surface in an area with downgradient perimeter berming;
7. 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;
8. Inspect the Oil and Location on a daily basis, unless the approved Form 2A provides for different inspection frequency or alternative method of compliance;
9. Maintain adequate Spill response equipment at the Oil and Gas Location during drilling and completion operations; and
10. 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.

#### Rule 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).

**Rule 435.a - Form 6, Notice of Intent to Abandon.** Prior to the abandonment of a Well, a Form 6, Well Abandonment Report - Notice of Intent to Abandon will be submitted to, and approved by, the Director. The Form 6 - Notice of Intent to Abandon will be completed and attachments included to fully describe the proposed abandonment operations. This includes the proposed depths of mechanical plugs and casing cuts; the proposed depths and volumes of all cement plugs; the amount, size and depth of casing and junk to be left in the Well; the volume, weight, and type of Fluid to be left in the wellbore between cement or mechanical plugs; and the nature and quantities of any other materials to be used in the plugging. The Operator will provide a current wellbore diagram and a wellbore diagram showing the proposed plugging procedure with the Form 6. If the Well is not plugged within six months of approval, the operator will file a new Form 6 - Notice of Intent to Abandon.

- (1) The Director may add any conditions of the approval to a Form 6 - Notice of Intent to Abandon 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.
- (3) Notice Requirements. An Operator will provide notice of plugging operations to the Surface Owner pursuant to Rule 412.a.(4).

**Rule 913.b.(5).B.v - Remediation.** When conducting Remediation activities,

- v. If Remediation occurs within High Priority Habitat, the Operator will incorporate Best Management Practices protective of the relevant wildlife species or habitat in the Operator's Form 27.

#### **Portions of Rule 1202 - Operating Requirements**

- a. The operating requirements identified in this Rule 1202.a apply to Oil and Gas Operations statewide unless the Operator obtains a signed waiver from CPW and the Director or Commission approves a Form 4, Sundry Notice or Form 2A documenting the relief.
  - (1) In black bear habitat, Operators will install and utilize bear-proof dumpsters and trash receptacles for food-related trash at all facilities that generate trash.
  - (2) Operators will disinfect water suction hoses and water transportation Tanks withdrawing from or discharging into surface waters (other than contained Pits) used previously in another river, intermittent or perennial stream, lake, pond, or wetland and discard rinse water in an approved disposal facility. Disinfection practices will be repeated prior to completing work and before moving to the next water body. Disinfection will be performed by scrubbing and pre-rinsing equipment away from water bodies to remove all mud, plants, and organic materials and then by implementing one of the following practices:
    - A. Spray/soak equipment with a CPW-approved disinfectant solution capable of killing whirling disease spores and other aquatic nuisance species defined by CPW; or
    - B. Spray/soak equipment with water greater than 140° Fahrenheit for at least 10 minutes. All equipment and any compartments they contain will be completely drained and dried between each use.
  - (3) At new and existing Oil and Gas Locations, Operators will not situate new staging, refueling, or Chemical storage areas within 500 feet of the

Ordinary High Water Mark (“OHWM”) of any river, perennial or intermittent stream, lake, pond, or wetland.

- (4) To prevent access by wildlife, including birds and bats, Operators will fence and net or install other CPW-approved exclusion devices on new Drilling Pits, Production Pits, and other Pits associated with Oil and Gas Operations that are intended to contain Fluids.
  - A. Such fencing and netting or other CPW-approved exclusion device will be installed within 5 days after the cessation of active drilling and completion activities and maintained until the Pit is removed from service and dried or closed pursuant to the Commission’s 900 Series Rules.
  - B. The Director may require an operator to fence and net or install other CPW-approved exclusion devices on an existing Pit if the Director determines that the installation is necessary and reasonable to protect Wildlife Resources based on the analysis required by Rule 909.j, or other information that demonstrates additional protections for Wildlife Resources are appropriate.
  - C. Operators will properly maintain and repair all fences, nets, and CPW-approved exclusion devices required by this Rule 1202.a.(4).
- (5) For trenches that are left open for more than 5 consecutive days during construction of Pipelines regulated pursuant to the Commission’s 1100 Series Rules, Operators will install wildlife escape ramps at a minimum of one ramp per 1/4 mile of trench.
- (6) When conducting interim and final Reclamation pursuant to Rules 1003 and 1004, Operators will use CPW-recommended seed mixes for Reclamation when consistent with the Surface Owner’s approval and any local soil conservation district requirements.
- (7) Operators will use CPW-recommended fence designs when consistent with the Surface Owner’s approval and any Relevant Local Government requirements.
- (8) Operators will conduct all vegetation removal necessary for Oil and Gas Operations outside of the nesting season for migratory birds (April 1 to August 31). For any vegetation removal that must be scheduled between April 1 to August 31, Operators may implement appropriate hazing or other exclusion measures prior to April 1 to avoid take of migratory birds. If hazing or other exclusion measures are not implemented, Operators will conduct pre-construction nesting migratory bird surveys within the approved disturbance area prior to any vegetation removal during the nesting season. If active nests are located, Operators will provide work zone buffers around active nests.



- (9) Operators will treat Drilling Pits, Production Pits, and any other Pit associated with Oil and Gas Operations containing water that provides a medium for breeding mosquitoes with Bti (*Bacillus thuringiensis v. israelensis*) or take other effective action to control mosquito larvae that may spread West Nile virus to Wildlife Resources. Such treatment will be conducted in a manner which will not adversely affect aquatic Wildlife Resources.
- b. Operators will bore, rather than trench, Flowline and utility crossings of perennial streams identified as aquatic High Priority Habitat unless the Operator obtains a signed waiver from CPW and the Director or Commission approves a Form 4 or Form 2A documenting the relief. When installing culverts or bridges, such structures will not impact or prevent the passage of fish unless otherwise directed by CPW.
- c. Except as specified pursuant to Rule 1202.c.(2), Operators will not conduct any new ground disturbance and Well work, including access road and pad construction, drilling and completion activities, and Flowline/utility corridor clearing and installation activities in the High Priority Habitats listed in Rule 1202.c.(1).
- (1) High Priority Habitats subject to this Rule 1202.c include:
- A. Columbian sharp-tailed grouse (within 0.6 miles of the lek site);
  - B. Greater prairie chicken (within 0.6 miles of the lek site);
  - C. Greater sage-grouse (within 1.0 miles of the lek site);
  - D. Gunnison sage-grouse (within 1.0 miles of the lek site);
  - E. Lesser prairie chicken (within 1.25 miles of the lek site);
  - F. Plains sharp-tailed grouse (within 0.4 miles of the lek site);
  - G. Bald eagle (within 0.25 miles of an active nest);
  - H. Ferruginous hawk (within 0.5 miles of an active nest);
  - I. Golden eagle (within 0.25 miles of an active nest);
  - J. Northern goshawk (within 0.5 miles of an active nest);
  - K. Peregrine falcon (within 0.5 miles of an active nest);
  - L. Prairie falcon (within 0.5 miles of an active nest);
  - M. Least tern production area;
  - N. Piping plover production area;
  - O. Townsend's big-eared bat, Mexican free-tailed bat, and myotis (within 350 feet of winter hibernacula);
  - P. Bighorn sheep production area;
  - Q. Waters identified by CPW as "Gold Medal" (within 500 feet of OHWM);

- R. Cutthroat trout designated crucial habitat and native fish and other native aquatic species conservation waters (within 500 feet of OHWM);
  - S. Sportfish management waters not identified by CPW as “Gold Medal” (within 500 feet of OHWM); and
  - T. CPW-owned State Wildlife Areas and State Parks.
- (2) This Rule 1202.c does not apply to:
- A. Production operations at existing Oil and Gas Locations, including:
    - i. Routine maintenance, repairs, and replacements of Production Facilities that do not require a drilling or workover rig;
    - ii. Emergency operations;
    - iii. Spill and Release response;
    - iv. Ongoing Reclamation and site maintenance activities;
    - v. Habitat improvements that have been approved by CPW or the Commission to Mitigate Adverse Impacts to Wildlife Resources at existing facilities; or
    - vi. Commission- or Director-requested work.
  - B. Non-emergency workovers, including uphole recompletions, plugging operations, and site investigation and Remediation at existing Oil and Gas Locations, if:
    - i. The Operator has obtained prior approval from the Director;
    - ii. The Operator has consulted with CPW; and
    - iii. The Operator Minimizes Adverse Impacts to the species for which the High Priority Habitat exists.
  - C. Access road construction and Flowline/utility corridor clearing and installation activities within the High Priority Habitat identified in Rules 1202.c.(1).Q-S in association with an approved Form 2A may be allowed subject to Best Management Practices or other avoidance measures agreed to in consultation with CPW.