



COGCC OPERATOR GUIDANCE

FIR FACTUAL RESOLUTION REQUEST PROCESS

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PURPOSE

This guidance document provides a process for Operators to request a formal COGCC Supervisor/Manager (“Supervisor”) review of a corrective action listed on a Field Inspection Report (FIR) that the operator believes is factually inaccurate. This process is optional and, if initiated by the operator, will occur prior to the FIR posting to the COGCC website. The operator has seven business days from receiving the FIR email notice to initiate the process.

Process Scope

The Factual Review Request (FRR) process provides operators a pathway to request a review of FIR findings that fall into one of the eight specific categories listed below. Operator disagreements or interpretations of COGCC’s corrective actions are not part of a factual review process.

Categories for Factual Review Requests

The following eight areas are subject to a formal factual review request.

1. The Location is not owned or operated by the operator.
 - This category is not available for situations where a Form 10 related to an asset transaction is still in process. The COGCC encourages buyers and sellers to work through compliance issues, data requests and to maintain an agreement related to

the transfer and completion of corrective actions on a timely basis.

- The COGCC expects operators on joint locations to work cooperatively to repair and complete corrective actions associated with surface and environmental issues.
2. The Operator that received an FIR with corrective actions has significant information or data that demonstrates that the equipment cited in the FIR is owned or operated by a different entity.
 - The information or data used by the operator to make this determination must be included with the FRR and should contain contact information for the actual equipment owner/operator.
 - This option is not available for gathering line meter runs/sheds or risers identified in a plugging or final reclamation inspection. Operators must have gathering line risers removed before a Location will pass a final reclamation inspection.
 3. The equipment belongs to the surface owner and a waiver exists. Attach documentation to the FRR.
 4. Findings were tied to multiple wells when it should have been tied to either a single well or the Location.
 5. A standard corrective action date is not per the established guidelines.

As noted in **Important Points (# 3)** the Corrective Action Matrix is a guidance document subject to change based on specific circumstances. Operators should review comments on the FIR that outline the changes or variations.

6. The corrective action dates are not attainable due to current weather conditions or seasonal limitations.

The application of this category for review purposes is limited. Compliance is required at all times and in all conditions. Additionally, in most circumstances the CA Matrix already takes weather, and local conditions into account.

7. Requested documentation was submitted prior to the inspection. Operators will attach documentation to enable staff verification.
8. Action was already completed prior to inspection (Attached documentation is required to verify). See Important Points #3 and 4.

Important Points

1. If an operator disputes a corrective action date in a FIR, the clock on the corrective action(s) date(s) does not stop nor will the dates change if the request is denied and any request by the Operator to seek an extension of a corrective action date will not be approved.
2. The burden of proof is on the Operator and the Operator must provide the OGCC with adequate information and documentation to clearly demonstrate an issue.
3. The Corrective Action Matrix is a guidance document subject to review and revisions. The COGCC maintains an updated CA Matrix on the website under Regulations-Enforcement. However, corrective action dates listed on a FIR may vary from the CA Matrix based on site conditions and the operators overall compliance record. For example, an operator will not receive a month to correct an ongoing impact or threat of impact to public health, safety, welfare, the environment, and wildlife resources. Additionally, not all of the rules and potential issues are included on the Corrective Action Matrix. However, the COGCC is required to regulate oil and gas operations in a manner that is protective of public health safety welfare the environment or wildlife resources.
4. For issues where a compliance plan or enforcement order with a schedule is in place related to the corrective action listed on a field inspection report then a FRR will not be accepted. For example, if a well is past due for a Mechanical Integrity Test, the well has not passed a MIT, and the well is included on a scheduled compliance plan. The well is still out of compliance for MIT and a corrective action will be included on the FIR until the MIT is conducted and compliance schedule met. A factual review suggesting CA already completed will be denied. The FIR is an important process for documenting ongoing noncompliance and identifying when a scheduled issue is complete.
5. Nothing in this process shall prohibit or otherwise prevent an Operator from requesting a hearing before the Colorado Oil and Gas Conservation Commission in accordance with Rule 503.b.

FACTUAL REVIEW REQUEST PROCESS

The process is comprised of either five or six high level steps with one key decision point as outlined in the below flowchart. The following section provides further guidance to these steps as required.

Steps 1 and 2 - Complete Request Form and Route (Operator and System)

The operator will have seven days from initial transmission (not including the

transmission date) of the FIR to request a factual review of a documented finding in the FIR. This is done by preparing and submitting the FIR Resolution Form which outlines the details. See the “*Field Inspection Resolution 2019*” for details on how to complete this form (cogcc.state.co.us/reg/forms/FIRR/instruction).

Operators can make a Factual Review Request for one of the one of the eight areas listed above as the basis for review. The FRR must contain succinct, accurate and appropriate supporting documentation via comments and attachments. Operators will also review and comply with the limitations and conditions discussed under each the eight areas allowed to be reviewed.

Once submitted, this form will automatically route to the supervisor or manager of the COGCC employee who performed the inspection.

Steps 3-6-Review and Decide on the Request (COGCC Supervisor)

The COGCC Supervisor will have 10 days from receipt of the request (not including the date received) to make a decision, not including the date of submittal. Supervisor will work with the inspector to address questions or concerns before making a final decision.

Supervisors will review comments and attachments sent by the operator via the FIR Resolution Form before making a final decision.

If the Request Is Approved

For each CA approved, the supervisor will select “Approved” on the FIR Resolution Form and will enter comments as appropriate. The system then posts the approved FIRR to the database and sends an e-mail to the operator.

If the Request Is Denied

For each CA denied, the supervisor will select “Not Approved” on the FIR Resolution Form and enter comments as appropriate. The system then posts the approved FIRR to the database and sends an e-mail to the operator.

Document Change Log

Change Date	Description of Changes
December 16, 2015	Document created and finalized
December 17, 2019	Clarification and additional information on factual review request requirement.