

RULES AND REGULATIONS

DEFINITIONS (100 Series)

CHILD CARE CENTER means a child care center as defined in § 26-6-102(5), C.R.S., that is in operation at the time of the pre-application notice pursuant to Rule 305.a.(4). A child care center will include any associated outdoor play areas adjacent to or directly accessible from the center and is fenced or has natural barriers, such as hedges or stationary walls, at least four (4) feet high demarcating its boundary.

HIGH OCCUPANCY BUILDING UNIT ~~shall~~ means:

- any ~~operating Public School as defined in § 22-7-703(4), C.R.S., Nonpublic School as defined in § 22-30.5-103.6(6.5), C.R.S.,~~ Nursing Facility as defined in § 25.5-4-103(14), C.R.S., Hospital, Life Care Institutions as defined in § 12-13-101, C.R.S., or Correctional Facility as defined in § 17-1-102(1.7), C.R.S., provided the facility or institution regularly serves 50 or more persons; or
- an operating Child Care Center as defined in § 26-6-102(1.5), C.R.S.

SCHOOL means any operating Public School as defined in § 22-7-703(4), C.R.S., including any Charter School as defined in § 22-30.5-103(2), C.R.S., or § 22-30.5-502(6), C.R.S., or Private School as defined in § 22-30.5-103(6.5), C.R.S.

SCHOOL FACILITY means any discrete facility or area, whether indoor or outdoor, associated with a school, that students use commonly as part of their curriculum or extracurricular activities. A school facility is either adjacent to or owned by the school or school governing body, and the school or school governing body has the legal right to use the school facility at its discretion. The definition includes Future School Facility.

SCHOOL GOVERNING BODY means the school district board or board of directors for public schools or the board of trustees, board of directors, or any other body or person charged with administering a private school or group of private schools, or any body or person responsible for administering or operating a child care center. A school governing body may delegate its rights under these rules, in writing, to a superintendent or other staff member, or to a principal or senior administrator of a school that is in proximity to the proposed oil and gas location.

FUTURE SCHOOL FACILITY means a school facility that is not yet built, but that the school or school governing body plans to build and use for students and staff within three years of the date the school or school governing body receives a pre-application notice pursuant to Rule 305.a.(4). In order to be considered a future school facility, the following requirements must be satisfied:

- For public, non-charter schools, the school governing body must affirm the nature, timing, and location of the future school facility in writing; or
- For charter schools, the school must have been approved by the appropriate school district or the State Charter School Institute, § 22-30.5-505, C.R.S., at the time it receives a pre-application notice pursuant to Rule 305.a.(4), and the school governing body must affirm the nature, timing, and location of the future school facility in writing; or
- For private schools, the school governing body must be registered with the Office of the Colorado Secretary of State at the time it receives a pre-application notice pursuant to Rule 305.a.(4), and must provide documentation proving its registration with the Office of the Colorado Secretary of State, its tax exempt status, and its submitted plans to the relevant local government building and planning office.

**SERIES DRILLING, DEVELOPMENT, PRODUCTION AND ABANDONMENT
(300 Series)**

303.b. FORM 2A, OIL AND GAS LOCATION ASSESSMENT.

(3) Information Requirements.

The Form 2A requires the following information:

U. Schools and Child Care Centers. If the proposed oil and gas location is subject to the notice requirements of Rule 305.a.(4), then the following information will be attached or included:

i. Facilities Map. A map or scaled aerial image depicting the oil and gas location boundary and proposed and existing wells and production facilities in proximity to any surrounding school facility or child care center; and

ii. A statement indicating whether the school governing body requested consultation and whether, after consultation, the school governing body and operator reached agreement regarding identification of a school facility or child care center.

305. FORM 2 AND 2A APPLICATION PROCEDURES

~~a. Pre-application notifications. For Oil and Gas Locations proposed within an Urban Mitigation Area or within the Buffer Zone Setback, an Operator shall provide a "Notice of Intent to Conduct Oil and Gas Operations" to the persons specified in subparts (1) and (2) not less than 30 days prior to submitting a Form 2A, Oil and Gas Location Assessment, to the Director.~~

(1) Urban Mitigation Area Notice to Local Government. For proposed Oil and Gas Locations within an Urban Mitigation Area, an Operator shall notify the local government in writing that it intends to apply for an Oil and Gas Location Assessment. The operator will provide a Notice of Intent to Conduct Oil and Gas Operations to the Local Governmental Designee in those jurisdictions that have designated an LGD or to the local government planning departments in jurisdictions that have not designated an LGD no less than 30 days before the operator submits a Form 2A, Oil and Gas Location Assessment, to the Director. Such notice shall be provided to the Local Governmental Designee in those jurisdictions that have designated an LGD, and to the planning department in jurisdictions that have no LGD. The notice shall include a general description of the proposed Oil and Gas Facilities, the location of the proposed Oil and Gas Facilities, the anticipated date operations (by calendar quarter and year) will commence, and that an additional notice pursuant to Rule 305.c. will be sent by the Operator. This notice shall serve as an invitation to the local government to engage in discussions with the Operator regarding proposed operations and timing, local government jurisdictional requirements, and opportunities to collaborate regarding site development. A local government may waive its right to notice under this provision at any time by providing written notice to an Operator and the Director. The notice requirement of this subpart does not apply to local governments that received notice and accepted the offer to consult pursuant to Rule 305A.a.

(2) Exception Zone and Buffer Zone Setback Notice to the Surface Owner and Building Unit Owners. For Oil and Gas Locations proposed within the Exception Zone or Buffer Zone Setback, Operators shall notify the Surface Owner and the owners of all Building Units that a permit to conduct Oil and Gas Operations is being sought no less than 30 days before the operator submits the Form 2A, Oil and Gas Location Assessment, to the Director. The Operator may rely on the county assessor tax records to identify the persons entitled to receive the Notice. Notice shall include the following:

- A. The Operator's contact information;
 - B. The location and a general description of the proposed Well or Oil and Gas Facilities;
 - C. The anticipated date operations will commence (by calendar quarter and year);
 - D. The Local Governmental Designee's (LGD) contact information;
 - E. Notice that the Building Unit owner may request a meeting to discuss the proposed operations by contacting the LGD or the Operator; and
 - F. A "Notice of Comment Period" will be sent pursuant to Rule 305.c. when the public comment period commences.
- (3) Large UMA Facility Notice to Proximate Local Governments. For a proposed Large UMA Facility, an operator shall notify any home rule or statutory city, town, territorial charter city, combined city and county, or county (for purposes of this section "Proximate Local Governments") within 1,000 feet of the proposed site that a permit to construct a Large UMA Facility is being sought not less than 45 days prior to submitting a Form 2A, Oil and Gas Location Assessment, to the Director. A local government may waive its right to notice under this provision at any time by providing written notice to the operator and the Director.
- A. The Notice shall include the following: the operator's contact information; a description of the location and a general description of the proposed Large UMA Facility; and state that the Proximate Local Government may provide comments as provided in Rule 305.d.
 - B. The Director will respond in writing to any Proximate Local Government comments regarding specific best management practices reasonably related to potential significant adverse impacts to public health, safety and welfare, including the environment and wildlife resources, that are within the Commission's jurisdiction to remedy for the proposed Large UMA Facility.

(4) Notice to School, Child Care Center, and School Governing Body.

- A. An operator will notify any relevant school or child care center, and school governing body, of a proposed oil and gas location within one-thousand, three hundred, twenty (1,320) feet or less from:
 - i. The property line of a parcel currently owned by the school, child care center, or school governing body as identified through county assessor records;
 - ii. 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 relevant local government; or
 - iii. 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.
- B. The operator will provide a pre-application Notice of Intent to Conduct Oil and Gas Operations to the principal or senior administrator of the school and to all applicable school governing bodies no less than 30 days before the operator submits the Form 2A, Oil and Gas Location Assessment, to the Director.

C. The Notice will include:

i. The operator's contact information;

ii. The location and general description of the proposed oil and gas location, including the School Facilities Map as required under Rule 303.b.(3)U;

iii. The Local Governmental Designee's (LGD) contact information;

iv. The anticipated date, by calendar year and quarter, that construction will begin and the expected schedule of drilling and completion activities;

v. Whether the operator anticipates the proposed wells or production facilities will be subject to the mitigation measures in Rule 604.c.;

vi. Whether the oil and gas location, wells, or production facilities are subject to a memorandum of understanding or other agreement with, or approval from, the relevant local government regarding location;

vii. 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 or child care center may delegate the consultation process to the principal or senior administrator of the school or child care center in proximity to the oil and gas location; and

viii. 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 305.d. public comment period.

D. A school governing body may waive the right to notice for it and all schools within the area subject to the school governing body's oversight under this provision at any time by providing written notice to the operator and the Director.

306. CONSULTATION AND MEETING PROCEDURES. Following the notifications provided for in Rule 305.c, an Operator shall comply with the following consultation and meeting procedures:

306.e. Meetings with Building Unit Owners Within a Buffer Zone Setback.

(1) **Meetings with Building Unit Owners.** An Operator shall be available to meet with Building Unit owners who received an OGLA Notice or a Buffer Zone Notice pursuant to Rule 305.c. and requested a meeting regarding the proposed Oil and Gas Location. Operators shall also be available to meet with such Building Unit owners if requested to do so by the Local Governmental Designee and such meetings shall comply with Rule 306.b.(3). Such informational meetings may be held on an individual basis, in small groups, or in larger community meetings.

(2) **Information provided by operator.** When meeting with Building Unit owners or their appointed agent(s) pursuant to subsection (1), above, the Operator shall provide the following information: the date construction is anticipated to begin; the anticipated duration of pad construction, drilling and completion activities; the types of equipment anticipated to be present on the Location; and the operator's interim and final reclamation obligation. In addition, the Operator shall present a description and diagram of the proposed Oil and Gas Location that includes the dimensions of the Location and the anticipated layout of production or injection facilities, pipelines, roads and any other areas to be used for oil and

gas operations. The Operator and Building Unit owners shall be encouraged to discuss potential concerns associated with Oil and Gas Operations, such as security, noise, light, odors, dust, and traffic, and shall provide information on proposed or recommended Best Management Practices or mitigation measures to eliminate, minimize or mitigate those issues.

- (3) **Waiver.** The Building Unit owner or agent may waive, permanently or otherwise, the foregoing meeting requirements. Any such waiver shall be in writing, signed by the owner or agent, and shall be submitted by the Building Unit owner or agent to the operator and the Director.
 - (4) **Mitigation Measures.** Operators will consider all legitimate concerns related to public health, safety, and welfare raised during informational meetings or in written comments and, in consultation with the Director and Local Governmental Designee if the LGD so requests, will add relevant and appropriate Best Management Practices or mitigation measures as Conditions of Approval into the Form 2A and any associated Form 2s.
 - (5) **Operator Certification.** The Director shall not approve a Form 2A, Oil and Gas Location Assessment, until the operator certifies it has complied with the meeting requirements of this Rule 306.e.
- f. **Final reclamation consultation.** In preparing for final reclamation and plugging and abandonment, the operator shall use its best efforts to consult in good faith with the affected Surface Owner (or the tenant when the Surface Owner has requested that such consultation be made with the tenant). Such good faith consultation shall allow the Surface Owner (or appointed agent) the opportunity to provide comments concerning preference for timing of such operations and all aspects of final reclamation, including, but not limited to, the desired final land use and seed mix to be applied.
- g. **Tenants.** Operators shall have no obligation to consult with tenant farmers, lessees, or any other party that may own or have an interest in any crops or surface improvements that could be affected by the proposed operation unless the Surface Owner appoints such person as its agent for such purposes. Nothing shall prevent the Surface Owner from including a tenant in any consultation, whether or not appointed as the Surface Owner's agent.
- h. **School, Child Care Center, and School Governing Body.** The operator will offer to consult with the school governing body that received notice pursuant to Rule 305.a.(4). 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 information regarding best management practices, operations, traffic management, and phases of development for the proposed oil and gas location. The operator and school governing body are encouraged to share information regarding operations and mitigation to attempt agreement regarding school facility and child care center setbacks.

RULES OF PRACTICE AND PROCEDURE

503. ALL OTHER PROCEEDINGS COMMENCED BY FILING AN APPLICATION

b. Applications to the Commission may be filed by the following applicants:

- (1) For purposes of applications for the creation of drilling units, applications for additional wells within existing drilling units, other applications for modifications to existing drilling unit orders, or applications for exceptions to Rule 318, only those owners within the proposed drilling unit, or within the existing drilling unit to be affected by the application, may be applicants.
- (2) For purposes of applications for involuntary pooling orders made pursuant to §34-60-116, C.R.S., or applications for unitization made pursuant to §34-60-118, C.R.S., only those owners within the proposed unit to be pooled or unitized may be applicants.
- (3) For purposes of seeking an order finding violation, only the Director may be an applicant.
- (4) For purposes of seeking a variance from the Commission, only the operator, mineral owner, surface owner or tenant of the lands which will be affected by such variance, other state agencies, any local government within whose jurisdiction the affected operation is located, or any person who may be directly and adversely affected or aggrieved if such variance is not granted, may be an applicant.
- (5) For purposes of seeking a hearing pursuant to Rules 216.f.(4), 303.c.(2), ~~or~~ 303.j.(2), or 604.a.(6)A only the operator seeking approval of the Application for Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, may be the applicant.
- (6) For purposes of seeking a hearing on approval of an Application for Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, under Rule 305.e.(2), only the following may be the applicant:
 - A. The operator;
 - B. The surface owner, solely to raise alleged noncompliance with Commission rules or statute, or to allege potential adverse impacts to public health, safety, and welfare, including the environment and wildlife resources, that are within the Commission's jurisdiction to remedy; and
 - C. The relevant local government, provided that the hearing will be conducted in similar fashion as is specified in Rules 508.j, 508.k, and 508.l with respect to a public issues hearing. It will be the burden of the local government to bring forward evidence sufficient for the Commission to make the preliminary findings specified in Rule 508.j at the outset of such hearing
- (7) For purposes of seeking a hearing on provisions related to measurement pursuant to Rule 328 or 329, only the mineral interest owner may be the applicant.
- (8) For purposes of seeking a hearing for an order limiting surface density pursuant to Rule 1202.d.(5), only the operator will be the applicant.
- (9) For purposes of seeking a hearing on a school facility or child care center setback determination pursuant to Rule 604.a.(6)B, only the operator or school governing body may be the applicant.

~~(9)~~(10) For purposes of seeking relief or a ruling from the Commission on any other matter not described in (1) through (8) above, only those who have demonstrated that they would be directly and adversely affected or aggrieved by a Commission ruling, and that any injury or threat of injury sustained would be entitled to legal protection under the Act may be an applicant.

SAFETY REGULATIONS

604. SETBACK AND MITIGATION MEASURES FOR OIL AND GAS FACILITIES, DRILLING, AND WELL SERVICING OPERATIONS

a. **Setbacks.** Effective August 1, 2013:

(1) **Exception Zone Setback.** No Well or Production Facility shall be located five hundred (500) feet or less from a Building Unit except as provided in Rules 604.a.(1) A and B, and 604.b.

A. Urban Mitigation Areas. The Director shall not approve a Form 2A or associated Form 2 proposing to locate a Well or a Production Facility within an Exception Zone Setback in an Urban Mitigation Area unless:

- i. the Operator submits a waiver from each Building Unit Owner within five hundred (500) feet of the proposed Oil and Gas Location with the Form 2A or associated Form 2, or obtains a variance pursuant to Rule 502; and
- ii. the Operator certifies it has complied with Rules 305.a, 305.c., and 306.e.; and
- iii. the Form 2A or Form 2 contains conditions of approval related to site specific mitigation measures sufficient to eliminate, minimize or mitigate potential adverse impacts to public health, safety, welfare, the environment, and wildlife to the maximum extent technically feasible and economically practicable; or
- iv. the Oil and Gas Location is approved as part of a Comprehensive Drilling Plan pursuant to Rule 216.

B. Non-Urban Mitigation Area Locations. Except as provided in subsection 604.b., below, the Director shall not approve a Form 2 or Form 2A proposing to locate a Well or a Production Facility within an Exception Zone Setback not in an Urban Mitigation Area unless the Operator certifies it has complied with Rules 305.a., 305.c., and 306.e., and the Form 2A or Form 2 contains conditions of approval related to site specific mitigation measures sufficient to eliminate, minimize or mitigate potential adverse impacts to public health, safety, welfare, the environment, and wildlife to the maximum extent technically feasible and economically practicable.

(2) **Buffer Zone Setback.** No Well or Production Facility shall be located one thousand (1,000) feet or less from a Building Unit until the Operator certifies it has complied with Rule 305.a., 305.c., and 306.e. and the Form 2A or Form 2 contains conditions of approval related to site specific mitigation measures as necessary to eliminate, minimize or mitigate potential adverse impacts to public health, safety, welfare, the environment, and wildlife.

(3) **High Occupancy Buildings.** No Well or Production Facility shall be located one thousand (1,000) feet or less from a High Occupancy Building Unit without Commission approval following Application and Hearing. Designated Setback Location and Exception Zone Setback mitigation measures pursuant to Rule 604.c. shall be required for Oil and Gas Locations within one thousand (1,000) feet of a High Occupancy Building, unless the Commission determines otherwise. Provided that this paragraph does not apply to a school facility or child care center, because the school facility and child care center setback is governed by Rule 604.a.(6).

- (4) **Designated Outside Activity Areas.** No Well or Production Facility shall be located three hundred fifty (350) feet or less from the boundary of a Designated Outside Activity Area. The Commission, in its discretion, may establish a setback of greater than three hundred fifty (350) feet based on the totality of circumstances. Designated Setback Location mitigation measures pursuant to Rule 604.c. shall be required for Oil and Gas Locations within one thousand (1,000) feet of a Designated Outside Activity Area, unless the Commission determines otherwise.
- (5) **Maximum Achievable Setback.** If the applicable setback would extend beyond the area on which the Operator has a legal right to locate the Well or Production Facilities, the Operator may seek a variance under Rule 502.b. to reduce the setback to the maximum achievable distance.

(6) School Facility and Child Care Center Setback.

- A. No well or production facility will be located one-thousand (1,000) feet or less from a school facility or child care center, unless:
- i. The relevant school governing body agrees in writing to the location of the proposed well or production facility, in which circumstance the Director may approve the Form 2, Application for Permit to Drill, or Form 2A, Oil and Gas Location Assessment; or
- ii. The Commission authorizes the Director to approve a Form 2, Application for Permit to Drill, or Form 2A, Oil and Gas Location Assessment, following application and a hearing held at a location reasonably proximate to the lands affected by the application. The Commission may allow a well or production facility within one-thousand (1,000) feet or less from a school facility or child care center if the Commission determines that potential locations outside the applicable setback are technically infeasible or economically impracticable and sufficient mitigation measures are in place to protect public health, safety, and welfare. The operator will file an application with the Commission requesting the hearing and demonstrate, to the Commission's satisfaction, that potential locations outside the applicable setback are technically infeasible or economically impracticable.
- B. Mitigation measures pursuant to Rule 604.c.(1-4) will be required for all oil and gas locations subject to the school facility or child care center setback.
- C. If the operator and school governing body disagree as to whether a proposed well or production facility is one-thousand (1,000) feet or less from a school facility or child care center, the operator or school governing body may file an application with the Commission requesting a hearing to determine the matter. At the hearing, the operator must demonstrate that the well or production facility is more than one-thousand (1,000) feet from any school facility or child care center.