

Colorado Oil & Gas Conservation Commission

Well Permitting and Location Approval Manual

This manual is intended as an informal guide to the process by which the Colorado Oil and Gas Conservation commission will issue drilling permits and approve location assessments under the amended rules that will become effective April 1, 2009 on State and private lands and May 1, 2009 on Federal lands.

Disclaimer:

- The information set out in this document is intended solely for informational guidance for COGCC personnel, the regulated community, local governments, and interested members of the public;
- This document describes general practices and recommendations regarding the COGCC permitting process;
- This document is not binding on any specific permitting actions, and the COGCC intends that case by case circumstances will be taken into account as appropriate;
- This document is not intended and cannot be relied upon to create rights, substantive or procedural enforceable by any person in litigation with the COGCC;
- COGCC reserves the right to be at variance with this document. COGCC also reserves the right to change this document at any time.

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1.0 Introduction

An important element of the revised Oil & Gas Conservation Commission rules is the separation of approval for surface locations of well pads and the permitting of wells. Once a well location is approved Permits-to-Drill from that well site can be issued more efficiently and in a shorter period.

This manual covers the new OGCC rules, sections 303 (Form 2 and 2A), 305 (notice) and 306 (consultations) and provides an initial guide for:

1. The preparation of Forms 2 (application for Permit-to-Drill) and 2A (Oil and Gas Location Assessment)
2. Notice, public comment and approval requirements associated with Forms 2 and 2A
3. The consultation processes with surface owners, local government, the Colorado Division of Wildlife (CDOW) and the Colorado Department of Health and the Environment (CDPHE)

This document will be dynamic, with its substance refined and expanded as appropriate on a periodic basis. In the future, additional manuals regarding the management of exploration and production waste (900 Series) and the development of Comprehensive Drilling Plans (CDPs)(Rule 216) may be added.

Additional guidance on the permitting process may be found in the Statement of Basis, Specific Statutory Authority, and Purpose for the amended rules, which is available on the COGCC Website; and on the Frequently Asked Questions page on the amended rules, which is likewise available on the COGCC Website. Additional questions may be directed to Dennis Ahlstrand, Permit Group Supervisor, at the COGCC (dennis.ahlstrand@state.co.us).

2.0 - Rule 303. Requirements for Form 2, Application for Permit-to-Drill, Deepen, Re-enter, or Recomplete, and Operate; Form 2A, Oil and Gas Location Assessment.

This section provides a guide to preparation of Forms 2 and 2A under the amended rules and to the review of applications. As a general matter, the amended rules provide for greater differentiation between downhole or subsurface issues, which are covered by Form 2, and above-ground or surface issues, which are covered by Form 2A. They also require additional information on surface disturbance, with the extent of such information dependent in part on the site and circumstances of the location.

2.1- FORM 2, APPLICATION FOR PERMIT-TO-DRILL, DEEPEN, RE-ENTER, OR RECOMPLETE

An approved Form 2 is required prior to:

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- **Drilling** a new well.
- **Re-entering** a plugged well.

An approved Form 2, approved Form 4, and a wellbore diagram are required prior to:

- **Recompleting** an existing well - to perforate or open a previously completed wellbore in a new formation not authorized by an unexpired permit.
- **Deepening** an existing well.
- **Side-tracking** a well - to drill a new wellbore from a previously approved wellbore (a permit shall authorize only one wellbore to be created). Upon approval the APD is assigned a new side-track code at the end of the API number.
 - If a wellbore is lost due to misdirection or junk in the hole, notify COGCC engineering department immediately to receive verbal approval to sidetrack the hole or move to new location and abandon the existing well bore.
 - In either case this will require approval of the plugging procedures on the hole to be abandoned in addition to the verbal ok to continue drilling operations.
 - Subsequently, the operator will need to immediately follow up with
 - Form 2 (Permit to drill) for new location;
 - Form 4 to document the verbal approval, to describe what happened and to detail the work to be performed;
 - Form 5 (Drilling Report) for lost hole and
 - Form 6 (Plugging Report) for lost hole.

An approved Form 2 is valid for a period of one year from the approval date. There are no permit extensions and re-filing will be required to re-instate the permit. Check the re-filing box on the form to indicate that the application is for a previously approved well permit. It is not necessary to wait until the old permit expires to submit a re-file, filing should try and place approval of the application to coincide with the expiration of the former approval. The re-filing should reflect any changes that may have been submitted since the original permit approval. For re-filing guidelines see [Guidance Document for Re-filing on Expired Permits](#) on the Policies page of the COGCC website.

2.1.1 Preparation to File a Form 2

Although the Rules may not require all of the listed items below to be conducted before filing the Form 2, it is suggested that they be considered in preparation for submitting the application.

- Check your location for the 150' property line setback – Rule 603.a.(2). The 150-foot property line setback can be waived in writing by the encroached upon property owner. An exception location request letter to the Director is needed for approval.
- Check your location for safety setback requirements – Rule 603.a.(1). Safety setbacks (from buildings, roads, major above ground utilities, railroads, etc.) cannot be waived, but there are alternatives. For example, a power line could be moved or buried. It might also possible to temporarily re-route or block a public road.

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- Check Rules and Commission Orders that apply to the proposed location to determine legal setbacks from lease lines and existing or proposed wells (Rules 318.a and b, 318A, 318A.e, 318B and Commission Orders).
 - If the proposed location does not comply with the required lease line or offset well setbacks, obtain required waivers from the affected parties. Also, prepare an exception location request letter to the Director.
 - If waivers cannot be obtained from all parties and no party objects to the location, the operator may apply for a variance under Rule 502.b.
 - If a party or parties object to a location and cannot reach an agreement, the operator may apply for a Commission hearing on the exception location.
- Conduct an initial onsite consultation with the surface owner per Rule 306.a.
- Stake the proposed location. This may be done in conjunction with the onsite consultation with the surface owner. Keep in mind the safety setback requirements of Rule 603.a, b., c., d and e. Note the location plat requirements of Rule 303.c. which are repeated in the [Survey Plat Checklist](#) on the COGCC website.
- Although not required by statute or COGCC Rules (but is a requirement of certain spacing orders), it is recommended that a Surface Use Agreement (SUA) be negotiated with the surface owner or designated agent for fee or state lands. If an SUA is not obtained where the mineral estate is severed from the surface estate an individual or blanket surface bond must be in place.
- Check the proposed location for high-density determination per Rule 603.b through e. If necessary, obtain waivers and prepare a Rule 502.b variance request letter. This variance request will trigger a consultation requirement with the, CDPHE (Rule 306.d.).

2.1.2 - Process for completing Form 2

The Form 2 should be completed and submitted with all required attachments.

2.1.2.1 – Required Attachments

Before completing the application, the attachments should be gathered and completed. Review of the attachments will be necessary to complete the Form 2.

- A location plat showing the entire section containing the proposed surface location and, if directional or horizontal, the proposed bottom hole location. A second plat is required if the bottom hole location (BHL) is located in a separate section. The plats should address all of the requirements listed in the [Survey Plat Checklist](#) found under the FORMS section of the COGCC website.
- If the proposed well is a directional or horizontal well, attach a directional drilling plan including two deviation plots, one showing the plan view and one showing the side view per Rule 321.
- If the location is an exception location to the lease line or offset well setback requirements (Rules 318A, 318A.e, 318B, 318.a and b, and Commission Orders) or to the safety setbacks (Rule 603.a, b, c, d and e) signed waivers from the affected parties should be attached per Rule 318.c. The operator should also include a letter to the Director requesting the exception location. The letter should state:
 - What rule/order is being excepted,

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- How the proposed location is an exception,
- Why the exception location is needed, and
- That signed waivers from all affected parties are being attached.
- If waivers from all parties cannot be obtained, a variance may be requested from the Director per Rule 502.b. Include in the 502.b request letter the guidelines listed above and, in addition, include documentation of when the waiver requests were mailed, how many were mailed, how many waivers were signed and the percentage they represented, and whether any protests have been received.
- Attach an H2S Contingency Plan if any H2S bearing formations will be encountered while drilling. If the location is in the Paradox Basin see the policy *Drilling Paradox Formation* on the COGCC Policies webpage.
- If the location is on federal or Indian minerals attach a copy of the federal drilling permit: form 3160-3, the 10 point drilling plan and the 13 point surface use plan.
- Attach a Form 4, detailing the work, and a well bore diagram if the Form 2 is for recompleting to a different reservoir, deepening or side-tracking a well.

2.1.2.2 – Form 2 Application

The operator should provide the following information as part of Form 2, as detailed in Rule 303.a.:

- Reference an approved Form 2A or Comprehensive Drilling Plan (CDP). If there is no approved Form 2A or no CDP that addresses all the items on a Form 2A, submit a completed Form 2A concurrently with the Form 2.
- The operator information: contact information, proposed well name and number, Federal Unit name and number (if applicable) and proposed total measured depth.
- The well location information: Quarter/Quarter, Section, Township, Range, and Principal Meridian, Latitude and Longitude in decimal degrees to a precision of five (5) decimal places using North American Datum (NAD) 1983 (e.g. ; latitude 37.12345 and longitude - 104.45632), footage from **exterior** section lines as seen on location plat, applicable field name and number, ground elevation and county.
- GPS Data: Date of measurement is the date the GPS coordinates were gathered; position dilution of precision (PDOP) values shall not be higher than six (6); the instrument operator name is the individual who took the readings.
- If the proposed well is directional or horizontal, use the directional plan to calculate the footage from exterior section lines at the top of the production zone and the bottom hole and insert these figures in the appropriate blanks on the Form 2. Include the section, township and range for these calculated points.
- Provide distance to the nearest well completed in same formation **or permitted/proposed well** with the same objective formation (Rules 318a., 318b., spacing orders). Concerning directional or horizontal wells this is the closest distance between the productive portions of the wellbores.

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- List each objective formation, formation code, applicable spacing order, spacing unit acreage assigned to well and unit configuration described in quarter-quarter sections or larger units. If the well is not spaced, leave the spacing order, acreage and configuration areas blank.
- If the proposed location is a Greater Wattenberg Area (GWA) infill well (Rule 318A.e), attach a twenty-day self-certification letter and plat designating the spacing unit and well count.
- State whether the mineral ownership is fee, state, federal or Indian.

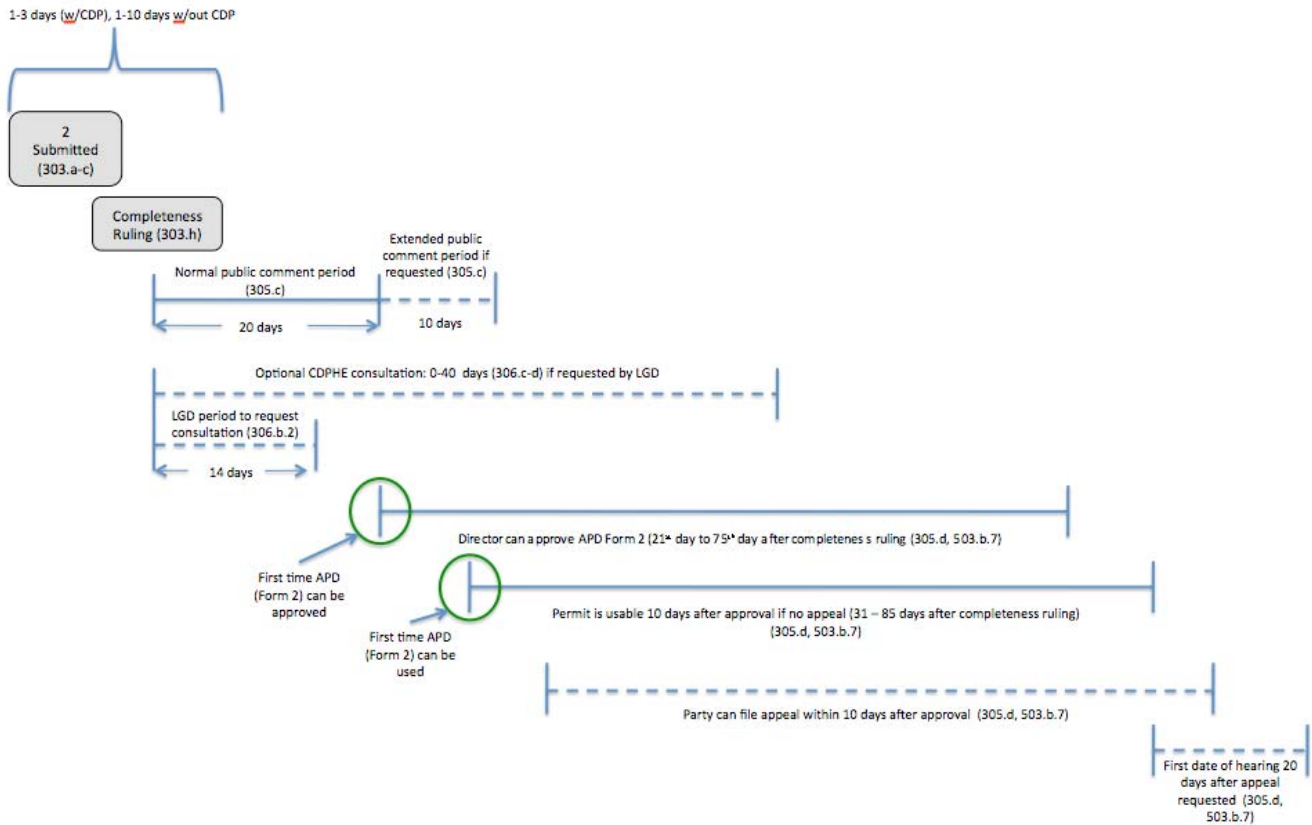
Include a complete description of the mineral lease. If it will not fit the space designated for the lease on the Form 2, you may attach a separate page describing the lease, a copy of the lease or a map of the lease. If the lease description includes a metes and bounds description, provide a lease map to depict the lease

- List the distance to the nearest mineral lease line. Concerning directional or horizontal wells this is the closest distance from the productive portion of the wellbore to the mineral lease line.
- List the total acres in the lease.
- Complete the Drilling Plans and Procedures information including mud information, casing and cementing information, BOP information and comments. If the APD is a re-file and casing/cementing changes have been previously submitted by sundry notice, or if the COGCC has required casing/cementing changes on the previous APD, be sure to reflect the changes on the re-filed application.
- Sign and date the application.

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Figure 1 below illustrates the Form 2 process, which has been streamlined over the previous rules:

Form 2 – Overview of General Process



Draft: Ver 6, March 2

2.1.3 - Helpful Hints

- **Well name and number:** You must have a well name and number. Even though there are no limitations on the length of the well name or number, we do encourage operators to keep them short. The well name and number should be unique to that well. Wells that are re-drilled as replacement wells should have some identifying character in the name or number so the new well can be differentiated from the original well.
- **Field names and numbers** are available on the COGCC website under “HELP.”
- **OGCC formation code** – can be found on the OGCC website www.cogcc.state.co.us under "HELP."

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- **Directional wells:** In addition to the information required on the plat in Rule 303.c., the plat shall also show the surface and bottom hole location. If the surface location is in a different section than the bottom hole location, a plat depicting each section is required. Additionally, the proposed directional survey including two (2) wellbore deviation plots, one depicting the plan view and one depicting the side view, shall accompany the application.
- **High density determination:** Provide explanation and the data used when it is determined that the well location is in a high density area. A high density area shall be determined at the time the well is permitted on a well-by-well basis by calculating the number of occupied building units within the seventy-two (72) acre area defined by a one thousand (1000) foot radius from the wellhead or production facility. If thirty-six (36) or more actual or platted building units (as defined in the 100 Series rules) are within the one thousand (1000) foot radius or eighteen (18) or more building units are within any semi-circle of the one thousand (1000) foot radius (i.e., an average density of one (1) building unit per two (2) acres), it shall be deemed a high density area. If platted building units are used to determine the density, then fifty percent (50%) of said platted units shall have building units under construction or constructed. See more details under rule 603.
- **Lease description:** Only describe the lease where the wellbore is producing. Use aliquot descriptions. If lots or any metes and bounds are used in the description, provide a plat or diagram. You may attach a map that shows the lease boundaries. Many operators find this section very confusing. If there are 1280 acres in your mineral lease you must describe the entire mineral lease not just the qtr/qtr or spacing unit where the well is. For example, your well may be located in the SWNE Sec 34-T3N-R66W spaced on 320 E/2 but the mineral lease encompasses 1280 acres described as follows T3N-R66W Sec 34 – E/2, Sec 35 – all, Sec 36 – W/2.

Lease line setback: Distance to nearest lease line – this refers to the mineral lease not the surface property line. Distance includes any productive portion of the wellbore (Rule 318 or spacing order). If the wellbore is highly deviated or directional at the producing formation the entire productive portion of the wellbore will be reviewed for setback from lease line

- **Casing and Cementing:** The engineering or drilling department should provide this information for you. The casing program adopted for each well must be so planned and maintained as to protect any potential oil or gas bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil, gas or water from one (1) horizon to another, that may result in the degradation of ground water. Water well depths can now be viewed on the Division of Water Resources Internet GIS available at <http://water.state.co.us/pubs/gis.asp>. The water well data will be reviewed by the COGCC to assess the casing and cementing design to insure aquifer protection.
- **BOP information:** Complete for the all equipment to be used. More than one type may be checked. If location is in a high-density area, comply with Rule 603 b.

2.2 - FORM 2A: OIL AND GAS LOCATION ASSESSMENT

An operator must submit a Form 2A prior to:

- Commencing activities at a new oil and gas location,
- At an existing oil and gas location where the activities would result in a modification or expansion of the location, and
- When drilling a well or constructing a drilling or production pit at an existing location.

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A Form 2A is not required:

- When the activities, other than drilling a new well or constructing a pit, would be confined within the originally disturbed area.
- For an oil and gas location covered by an approved CDP where in accepting the CDP the COGCC has determined that a Form 2A will not be required for that location.
- For gathering lines, seismic operations, roads, or pipelines for oil, gas or water.

Depending on specific circumstances, a Form 2A may require approval or may be informational, not requiring approval.

2.2.1 - Form 2A Requiring Approval:

For the following situations, the Form 2A shall require approval by the Director:

- Any new oil and gas location with surface disturbance of more than one acre located in Garfield, Mesa, Gunnison or Rio Blanco counties.
- A location that requires consultation with the CDOW or the CDPHE.
- Locations that the local government designee requests CDPHE consultation.
- A location for a production facility that is servicing multiple wells and would not require any other COGCC permit or facility registration.

A Form 2A Requiring Approval for a proposed drilling location can be submitted prior to or concurrent with the filing of the Form 2.

An approved Form 2A is valid for a period of three years from the approval date.

2.2.2 - Form 2A Informational Report

A Form 2A Informational Report is required for locations not listed above and shall be filed concurrently with the first Form 2 for that location. The informational Form 2A does not require approval by the Director; the acceptance will result from the permit approval.

2.2.3 - Preparation to File a Form 2A

Although the Rules may not require the all of listed items below to be conducted before filing a Form 2A, it is suggested that they be considered in preparation for submitting the application.

- Check the location for the 150' property line setback – Rule 603.a.(2). The 150-foot property line setback can be waived in writing by the encroached upon property owner. An exception location request letter to the Director is needed for approval.

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- Check the location for safety setback requirements – Rule 603.a.(1). Safety setbacks (from buildings, roads, major above ground utilities, railroads, etc.) cannot be waived, but there are alternatives. For example, a power line could be moved or buried. It also might also be possible to temporarily relocate or block a public road.
- Check Rules and Commission Orders that apply to the proposed location to check for legal setbacks from lease lines and existing or proposed wells (Rule 318.a and b and Commission Orders).
 - If the proposed location does not comply with the required lease line then you must obtain required waivers from the affected parties. Also, submit an exception location request letter to the Director.
 - If a party or parties object to a location and cannot reach an agreement, the operator may apply for a Commission hearing on the exception location.
- Conduct an onsite consultation with the surface owner per rule 306.a.
- Although not required by statute or COGCC Rules, it is recommended that a Surface Use Agreement (SUA) be negotiated with the surface owner or designated agent for fee and state lands. If the surface and the mineral estate are severed and a SUA is not obtained, an individual or blanket surface bond must be in place.
- Check the proposed location for high density determination per Rule 603.b through e. If necessary, obtain waivers and prepare an exception location request letter.

2.2.4 - Process for completing Form 2A

The Form 2A should be completed and submitted with all required attachments. Where this information has been included in a federal Surface Use Plan of Operations or a federal Right of Way, Form 299, the operator may attach that document and indicate where information required by the Form 2A may be found in the attached document. Gather the data required as attachments first, this will be necessary for the completion of the form.

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2.2.4.1 – Required Attachments

The preparation of the Form 2A will go quicker and smoother if the following attachments are collected before filling out the actual application.

- Location Pictures: At least four color photos, one of the staked location from each cardinal direction. Identify each photo by date taken, well or location name, and direction of view.
- Location Drawing: This should depict all visible improvements within 400 feet of the proposed location. This should include buildings/residences, public roads and trails, major above-ground utilities, railroads, pipelines, mines, oil/gas/injection/water/plugged wells, etc. See Rule 303.d(3)C.
- Hydrology Map: A topographic map showing all surface waters and riparian areas within one thousand (1,000) feet of the proposed oil and gas location, with a horizontal distance and approximate bearing from the oil and gas location. The applicant may rely upon any appropriate and credible source of information on riparian areas to define such areas.
- Access Road Map: An 8½” x 11” vicinity or USGS topographic map showing the access road from the location to the nearest highway or county road.
- Reference Area Map: A topographic map showing the location of the site and the location of the reference area. This will not be necessary if the reference area is immediately adjacent to the location and is noted on the form with the direction of the preferred area.
- Reference Point Pictures: Four color photos of the reference area, taken during the growing season of vegetation and facing each cardinal direction. Each photograph shall be identified by date taken, well or oil and gas location name, and direction of view. These photographs may be submitted at any time up to twelve (12) months after the Form 2A.
- Unit NRCS Map Description: Soil map unit description. Select the SOILS_NRCS layer of the MAPS link on the COGCC website. Double click on the layer containing the proposed location. This will link you to the NRCS website where you can then generate the “map unit description” report for the selected soil unit.
- Construction Layout Drawing: Plan view and cut and fill view required for locations planned on slopes of ten percent (10%) or greater.
- Multi-Well Plan: Show proposed wellbore trajectory with bottom-hole locations.
- Proposed BMPs: A description of any applicant-proposed Best Management Practices or, where a variance from a provision of these rules is sought, any applicant-proposed measures to meet the standards for such a variance. With the consent of the surface owner, this may include mitigation measures contained in the relevant surface use agreement. Note that nothing in this section is intended to suggest which BMPs are required and the operator may propose the BMPs of their choice. Operators are urged to carefully review the environmental issues of their locations and propose BMPs that they have had success with and they feel are most practicable. By providing this information up front the operator may avoid negotiation of conditions of approval added to the form.

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- **Sensitive Area Data:** If the oil and gas location is in a sensitive area, the operator or Director has data that indicates there is where potential impact to groundwater or surface water may occur (Rule 901.e.), the data should be included that was used in the determination, such as the appropriate geologic and hydrologic data and tests.
- **Section 404 (ACOE) Permit:** Where the proposed oil and gas location is in a wetlands and the operator has obtained a permit from the Army Corp of Engineers, (Rule 303.f.) this document should be included in its entirety.
- **CDP Conditions of Approval:** Where the proposed oil and gas location is covered by a CDP accepted pursuant to Rule 216, a list of any conditions of approval that are required for this location.
- **317B Notification:** Where proposed oil and gas location is within a zone defined in Rule 317B. Table 1, include documentation that the operator has notified potentially affected water systems within 15 miles downstream. (Rule 303.d.(3)N.) The water systems and their contacts are available from the CDPHE.

2.2.4.2 – Form 2A Completion Process

As indicated above, the actual form 2A application should be completed after the attachments are collected.

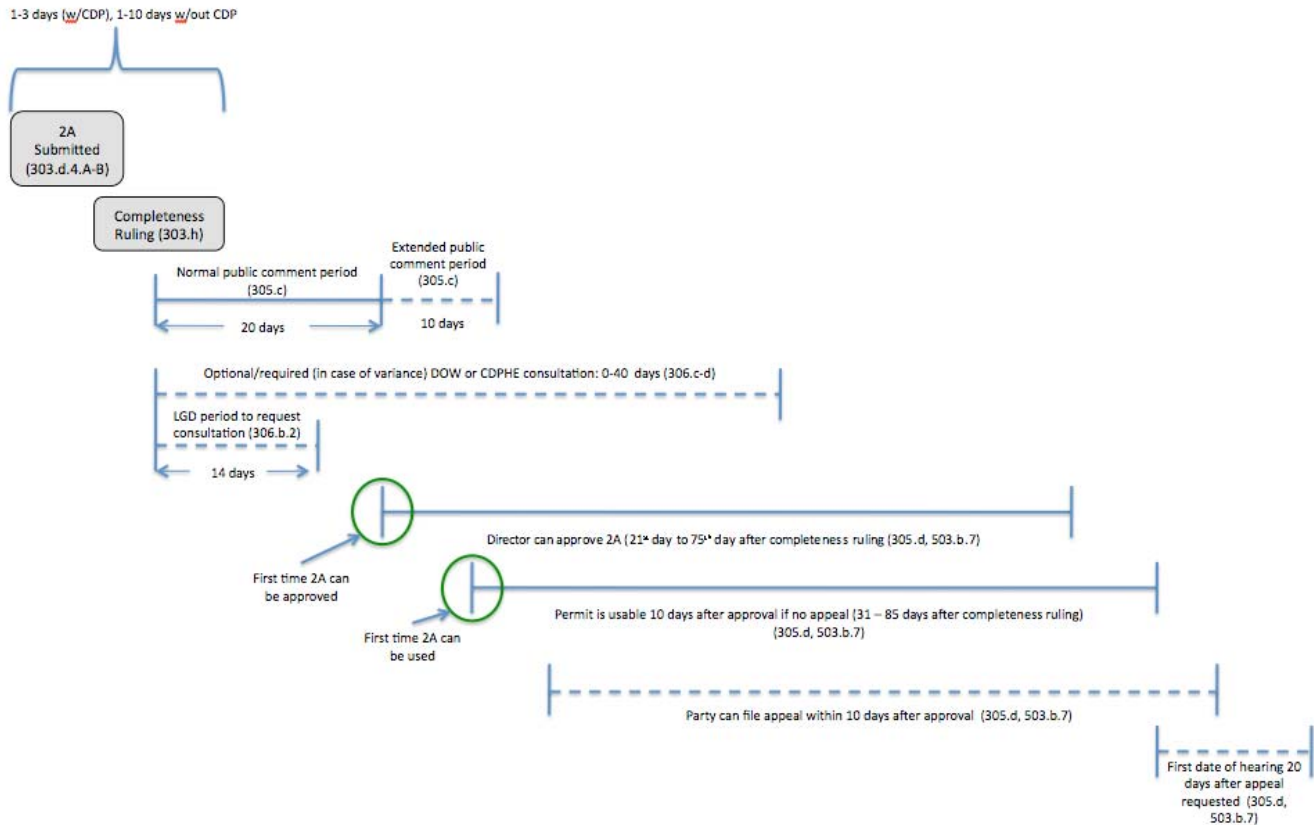
- Indicate whether the location is for a New Location or to Amend Existing Location. If the intent is to amend an existing location include the location number found by querying the COGCC website database.
- Indicate if location is part of another permit application.
- **Consultation.** Identify if the location is included in a CDP (include the CDP number), within a Sensitive Wildlife Habitat or Restricted Surface Occupancy area, or includes a Rule 306.d.(1)A.ii variance request.
- **Operator information.** If the form is to be completed online then insure that the information is complete and accurate.
- **Contact information.** The contact is very important as any data or consultation requests will be directed to this contact person and timely responses to inquires will avoid delays.
- **Location Identification.** This information should also be on the scaled drawing provided as an attachment.
- **Facilities.** Indicate the number of each type of oil and gas facility planned on location. Accurate completion of this information will avoid the need to file supplemental information on a Sundry Notice, Form 4, for addition of unlisted equipment or filing and an amended Form 2A for adding wells or pits that were not identified in the original application.
- **Construction.** Accurate information helps the reviewers determine when, how long and the scale of the disturbance which may affect the decisions of necessary best management practices that may be required during construction and interim reclamation operations. This section also includes questions on the type and handling of drilling fluids.

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- **Surface Owner.** This information is very important in order for the 305.d.(1) notice of the decision that is required for the Director to send to the surface owner when a final decision is made on the approval of the application and it is waiting for the 10 day appeal period of the decision.
- **Reclamation Financial Assurance.** Indicate the source of the financial assurance and the Surety Id of the instrument providing the coverage. All locations will be assigned to a financial assurance instrument until Rule 1004, Final Reclamation is approved. The Surety Id may be found under the operator information on the COGCC website database under operator information the permit technician may complete this information if it is unavailable.
- **Cultural.** This information is used to determine safety setback requirements. Much of this information may be available on the scaled drawing.
- **Current Land Use.** Check all land uses that apply; this information will help determine the basis for setting reclamation standards, Rule 303.d.(3)F.
- **Future Land Use.** Check all land uses that apply; this information will help determine the basis for setting reclamation standards, Rule 303.d.(3)F.
- **Soils.** This information should be used in the location construction operations to aid in soil segregation.
- **Plant Community.** This information aids in the determination of the basis of reclamation standards and to identify environmentally sensitive areas.
- **Water Resources.** This information is used to help determine where additional protection of water resources may be necessary through use of best management practices.
- **Comments.** Use this area to provide any site specific information that may be pertinent to the review and approval of the form. This may include stating that the reclamation reference area is immediately adjacent to the location, best management practices that are going to be implemented, specific land owner or local government requirements, or any thing else that may be beneficial in the review process.
- Sign and date the application.

Figure 2 presents the processing time for a Form 2A

Form 2A – Overview of General Process



Draft: Ver 6, March 2

2.3 - Review by COGCC

- The Form 2 or 2A will be reviewed for completeness within the appropriate time frame; less than three (3) days for locations in an accepted CDP and ten (10) days for all others. This determination will include a review of the data on the form is complete and that all required attachments are present and appropriate.
- If a Form 2 or 2A is found incomplete, a request for additional information from the operator will be made. If this information is not received within thirty days, the permit will be withdrawn.
- Minor revisions to the Form 2 or 2A may be made by the operator prior to approval by contacting COGCC staff.
- Additional information may be requested from the operator after the completeness review.

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- Revisions of the Form 2 or 2A after COGCC approval must be submitted on a Form 4 for approval.

2.4 - Issuance by COGCC

- Applications in areas pending Commission hearing may not be issued until the matter is heard and decided by the Commission.
- Applications may be issued without notice and consultation if the applicant makes a sworn statement that the lease hold rights or obligations will cause the contract to be terminated or there are exigent circumstances that will cause significant economic hardship to the drilling contractor or operator, Rule 303.1.
- An approved Form 2, Permit to Drill shall expire one (1) year from issuance and an approved Form 2A, Location Assessment shall expire three (3) years from issuance. The approval shall not be extended and must be re-applied for to achieve re-instatement.
- The Director may withhold issuance of an application if a written complaint or staff analysis indicates the issuance of the application would result in a material violation of the rules, regulations, orders or statutes or otherwise presents a material threat to public health safety and welfare, including the environment or wildlife resources. The withholding of issuance shall be limited to the minimum period of time to investigate and resolve the alleged violation or issue. If the complaint or issue is dismissed or the application continues to be withheld then the surface owner, CDPHE, CDOW or the operator may seek relief through Commission action.

2.5 - Helpful Hints

To determine if a drilling location is covered by a spacing order or a well location rule follow the suggestions below:

- Spacing Orders: To determine if your drilling location is covered by a spacing order you can utilize the COGCC GIS Online by clicking on the MAPS link. Navigate to the section that contains the proposed location and check the layer on the left labeled *COGCC Spacing*. If a blue layer appears over the section, it is covered by one or more spacing orders. Double click the cursor over the section. A new window will appear with a spacing order list. By clicking on the blue cause-order number link you can view the order summary and, also click links on the right to view the order or hearing files.
- Well location rules –
 - Rule 318A: This rule covers wells in the Greater Wattenberg Area. Utilize the COGCC GIS Online by clicking on the MAPS link. Navigate to the section that contains the proposed location and check the layer on the left labeled *GWARule318A* under the *COGCC POLICIES/RULES* heading. If a green layer covers the section, Rule 318A applies to that section. Locate Rule 318A in the RULES link on the COGCC website.
 - Rules 318A.e: This rule covers wells in the Greater Wattenberg Area. Follow the procedure above, but check the layer on the left labeled *GWA Infill 318Ae* under the *COGCC POLICIES/RULES* heading. If a yellow layer covers the section, Rule 318A.e applies to that section. Locate Rule 318A.e in the RULES link on the COGCC website.

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- Rule 318B: This rule covers Niobrara wells in parts of Yuma and Phillips counties. Navigate to the section that contains the proposed location and check the layer on the left labeled *YumaWLR 318B* under the *COGCC POLICIES/RULES* heading. If a green layer covers the section, Rule 318B applies to that section. Locate Rule 318B in the RULES link on the COGCC website.
- Statewide setbacks: If the drilling location is not covered by a spacing order or a well location rule, it is covered by the statewide setback rules. These are Rules 318.a and 318.b and can be found in the RULES link on the COGCC website. If a variance is being requested as part of the Form 2A, then applicants should include information to assist the COGCC and, where appropriate, CDOW or CDPHE, in evaluating the variance request. It is recommended that operators intending to request variances as part of a Form 2A should discuss the variance ahead of time with the COGCC and, where appropriate, CDOW or CDPHE.

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3.0 - Rule 305: Notice, Comment, Approval

This rule requires, after submission of a complete Oil and Gas Location Assessment Form 2A, that the COGCC Director post the complete Form 2A on the Commission's website and provide notice to other required state and local government agencies. Rule 305 also requires that the operator provide copies of the complete Form 2A and other information to the LGD, the surface owner(s), and nearby landowner(s) and to provide the surface owner(s) advance notice of oil and gas operations.

This posting and notice will provide an opportunity for the public, the local government, and relevant state agencies to provide comments regarding the Form 2A.

3.1 - COGCC Responsibilities

The Director will post the complete Form 2A on the COGCC website and will concurrently provide electronic notice to the relevant LGD, the CDOW (if required by Rule 306.c.) and the CDPHE (if required by Rule 306.d.). If an APD Form 2 is submitted at the same time as the Form 2A, the COGCC will include that as part of the posting of the Form 2A. If a Form 2 is subsequently filed, the COGCC will post a summary notice referencing the prior Form 2A and will provide electronic notice to the LGD, CDOW, and CDPHE.. The posting of the Form 2A will include the following:

- The complete Form 2A with attachments
- The date the Form 2A was posted
- The final dates comments must be received
- Address(es) to which comments may be sent
- If the proposed oil and gas location is part of a CDP, directions for review of the CDP will be part of the posting

Comment Period: The Director will not approve Form 2A or associated Form 2 until after the required 20 day comment period. The Director may extend the comment period to 30 days upon the request of the CDOW, the CDPHE, the surface owner, or owner of nearby property noticed under this Rule.

Conditions of Approval in Issuance of Permit: After the comment period is over and after any necessary consultation with CDPHE and CDOW, the Director will review any COAs recommended by CDPHE, CDOW, or developed through staff analysis and determine if they are appropriate to implement the provisions of the Act, or COGCC Rules, or to address legitimate concerns expressed during the comment period. If the COAs are appropriate for such purpose, and if they are technically feasible and economically practicable, then they may be attached to the Form 2 or Form 2A. The Director shall promptly notify the operator and any party with standing under Rule 503.b. of a decision to approve the Form 2 or Form 2A and of any attached COAs.

An approved Form 2 or Form 2A may be suspended if a party with standing objects in writing within 10 days of the issuance of the decision to approve the Form 2 or Form 2A, pending an expedited hearing before the Commission. The decision to approve a Form 2 or Form 2A that is not suspended shall be deemed final, subject to judicial appeal.

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3.2 - Operator Responsibilities

As required by Rule 303, an operator must submit to the COGCC an Oil and Gas Location Assessment Form 2A. Once the Director determines that the Form 2A is complete, the operator is obliged to promptly provide the Form 2A and the additional information listed below to the surface owner(s) and landowners within 500 feet of the proposed oil and gas location. If the oil and gas location is within an area covered by Rule 318A. or 318B., notice is only required for surface owner(s). In addition, the operator must provide advance notice to the surface owner in advance of construction and final reclamation.

Landowner Notice: The notice to the surface owner and landowners within 500 feet of the proposed location must include the following:

- A copy of the Form 2A without attachments except those listed below:
 - The scaled drawing filed with the Form 2A showing all visible improvements within 400 feet of the oil and gas location. A description of surface uses within the four hundred (400) foot radius of a proposed oil and gas location, if any, shall be attached to the scaled drawing. If there are no visible improvements within four hundred (400) feet of a proposed oil and gas location, it shall be so noted on the Form 2A. (Rule 303.d.(3)C.)
 - The topographic map showing the access road from the location to the nearest highway or county road.
 - Notice that the complete Form 2A with attachments may be reviewed on the COGCC website and that comments may be submitted to the Director
 - For the surface owner, an operator must provide the following information in addition to that listed above:
 - A copy of the COGCC Information Brochure for Surface Owners
 - A postage paid, return addressed postcard whereby a surface owner may request a Rule 306. consultation
 - A copy of the COGCC Onsite Inspection Policy if no SUA is in place

Advance Notice: In addition to the landowner notice requirements listed above, an operator must also provide advance notice to the surface owner 30 days in advance of operations with heavy equipment for drilling of the well (Rule 305.e.(1).B.). The advance notice provided to the surface owner must include:

- Operator's name and contact information for a company representative
- A site diagram or plat showing the proposed location of the well and associated roads and production facilities
- Expected date of the commencement of activities
- Concurrent with the advance notice, an operator shall post a sign at the intersection of the lease road and public road providing the name of the proposed well, the legal location, and the estimated date of commencement of operations (Rule 305.f.)

Other Notices: An operator must also notify the surface owner:

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- Seven days in advance of subsequent well operations such as recompletion or re-fracturing the well (Rule 305.e.(4).)
- Fourteen days prior to the commencement of operations on irrigated land between March 1 and October 31 to coordinate activities to avoid unreasonable interference with irrigation activities and plans (Rule 305.e.(5).)
- Thirty days prior to final reclamation (Rule 305.e.(6).)

3.3 - Surface Owner Responsibilities

The surface owner may appoint in writing an agent for further notice and consultation required by Rule 306. (Rule 305.e.(2).)

It is the responsibility of the surface owner to provide the notices required by Rule 305 to the tenant, lessee, or other party that may own or have interest in crops or surface improvements that may be affected by the proposed oil and gas operations (Rule 305.e.(3).)

The surface owner notice requirements may be waived by the surface owner in writing at any time. Such waiver of these requirements may be rescinded by the surface owner at any time. (Rule 305.e.(7).)

If a surface owner alleges that an operator has not fulfilled the consultation requirements of Rule 305., they may submit a Complaint Report, Form 18, to the COGCC. Upon receipt of the complaint, COGCC staff may request information such as a detailed timeline of all contacts between the operator and the surface owner, copies of all maps and diagrams provided to the surface owner, copies of all correspondence, including electronic mail, or other information that shows the operator's efforts to consult in good faith. COGCC staff will use this information, in conjunction with the surface owner complaint, to determine if the Rule 305 notice requirements have been met.

Process

1. Operator submits an Oil and Gas Location Assessment Form 2A to the COGCC
2. The Director determines if the Form 2A is complete.
 - a. If incomplete, the Form 2A will not be reviewed or approved pending additional information from the operator. If required information is not received within 30 days of the notice of deficiency, the Form 2A will be withdrawn.
 - b. If the Form 2A is complete, the Director shall post the Form 2A on the COGCC website and concurrently provide notice to LGDs, CDOW and CDPHE.
3. The Director reviews application for compliance and determines conditions of approval based on recommendations from LGD, CDOW, CDPHE, public and staff.
4. Director denies or approves application.
5. Director notifies parties with standing, operator, surface owner, LGD, CDOW, and CDPHE, of decision to approve application.
6. Decision will be final after 10 days if not appealed and the COGCC website will note such.

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3.4 - Helpful Hints

- The operator should initiate consultation with the surface owner as required by Rule 306.a. prior to submitting a Form 2 or Form 2A.
- The operator may want to enter into SUA that addresses some of the environmental concerns that may require mitigation. The operator may request a waiver from surface owner for environmental mitigation required by COGCC.
- Maintain detailed records of all contacts and correspondence between the operator and the surface owner(s) or the designated agent.

4.0 - Rule 306.a. Consultation with the surface owner

This rule requires operators to consult in good faith with the surface owner or appointed agent prior to entering the site with heavy equipment and beginning construction of an oil and gas location. It is strongly recommended that this consultation occur prior to submittal of an APD or Form 2A for the location so that such submittal reflects the results of the consultation. Otherwise, the APD or Form 2A may need to be amended or supplemented, which could extend the review process.

The first date of Rule 306.a. consultation is the beginning of the 10-business day window during which a surface owner may request an onsite inspection under the COGCC Onsite Inspection Policy (Version approved 12/6/2005). The operator must provide a copy of the COGCC's Onsite Inspection Policy to the surface owner no later than the first date of the Rule 306.a. consultation.

4.1 - Operator Responsibilities

The operator must consult with surface owner or appointed agent to discuss proposed operations. The operator will provide, discuss and allow the surface owner to provide comments on:

- A description or diagram of the proposed drilling location
- Location and dimensions of the proposed drilling site
- If known, the location of associated production or injection facilities, pipelines, roads and other areas to be used for oil and gas operations if not previously furnished or is different from what was previously furnished (Rule 306.a.1)
- Topsoil management practices

If the surface owner or agent cannot meet at the proposed well location, the required information may be delivered to the surface owner or agent by certified mail and consultation may occur by telephone, mail or electronic mail.

4.2 - Surface Owner Responsibilities

A surface owner or agent has the right to consult with an operator's representative and is expected to do so in good faith and in a timely manner, recognizing the rights of the mineral interest owner. This consultation is intended to mitigate or minimize the impacts of oil and gas development on the surface and to provide comment to the operator's representative regarding timing and location of operations and facilities. This consultation may be waived by the surface owner or agent in writing at any time. The

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surface owner or agent may request an Onsite Inspection with the COGCC staff within 10 business days of the date of first consultation (See Onsite Inspection Policy approved 12/6/2005) with the operator required under Rule 306.a.

If a surface owner alleges that an operator has not fulfilled the consultation requirements of Rule 306.a., they may submit a Complaint Report - Form 18 to the COGCC (currently these go to Permit Supervisor or to the COGCC Onsite Inspection Specialist). Upon receipt of the complaint, COGCC staff may request information such as a detailed timeline of all contacts between the operator and the surface owner, copies of all maps and diagrams provided to the surface owner, copies of all correspondence, including electronic mail, or other information that shows the operator's efforts to consult in good faith. COGCC staff will use this information, in conjunction with the surface owner complaint, to determine if the Rule 306.a. consultation requirements have been met.

4.3 - Helpful Hints

- Maintain detailed records of all contacts and correspondence between the operator and the surface owner(s) or the designated agent.
- The operator should ensure that the surface owner is aware of their rights and responsibilities under this Rule and as part of the COGCC Onsite Inspection Policy.
- Although not required by Rule, the operator should initiate consultation with the surface owner before submitting an APD Form 2 as this may eliminate the need to resurvey locations of wells and surface facilities if an alternate location is acceptable to both the operator and the surface owner.
- All parties should read and be familiar with the requirements of this Rule.

5.0 - Rule 306.b: Local Government Consultation

Section 306.b provides for a consultation with local governments. However, as stated in amended Rule 201, “Nothing in these rules shall establish, alter, impair, or negate the authority of local and county governments to regulate land use related to oil and gas operations, so long as such local regulation is not in operational conflict with the Act or regulations promulgated thereunder.”

There are two options for local governments that have identified a “Local Government Designee”, which is defined as the office designated to receive, on behalf of the local government, copies of all documents required to be filed with the local governmental designee pursuant to these rules:

1. The local government may call for a consultation with an operator concerning an application for Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, for the location of roads, production facilities and well sites prior to the time of the Director making a decision on the Form 2 or 2A.
2. Within fourteen (14) days of its notification pursuant to Rule 305, the local governmental designee may notify the COGCC and the CDPHE by electronic mail of its desire to have the CDPHE consult on a proposed oil and gas location, based on concerns regarding public health, safety, welfare, or impacts to the environment.

5.1 Local Government Responsibilities and Rights

Nothing in this section limits the right of a local government to appeal a decision of the Director. Notice of applications will be posted on the COGCC Website and LGDs will be notified by electronic mail.

5.1.1 Consultations about roads, well sites and production facilities

The Local Government Designee may request a consultation with the operator about the locations of roads, well sites and production facilities prior to the time the Form 2 or 2A is approved. However, the Local Government is encouraged to complete consultations during pre-application discussions with the operator or at latest during the public comment period to allow time for inclusion of information from the consultation in the application prior to the Director’s decision on the Form 2 or Form 2A.

For roads, well sites or production facilities on private property, the Local Government is encouraged to consult with both the operator and the owner of the property. This provides a benefit in that many times local governments may have credible relations with surface owners.

5.1.2 Local Government consultations concerning public safety, health, welfare or impacts to the environment

Within 14 days of its notification pursuant to Rule 305 (public notice), a Local Government may request a consultation with the CDPHE relative to concerns about public safety, health, welfare or impacts to the environment of the proposed well location or well. The request must be substantive and well-supported for CDPHE to accept the consultation request.

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The Local Government Designee may submit the request by electronic mail. It is strongly encouraged that the request contain the following:

1. A detailed description of the concern prompting the request for consultation.
2. Data that supports the request for involvement of the CDPHE.
3. Alternative mitigation options, if known, that would mitigate the concern.

5.1.3 Public Issues Hearing

Upon a request by an applicant, protestant, or intervener, which can include a local government, or on the Commission's own motion, a public issues hearing can be convened provided the Commission finds that the public issues raised by the application relate to potential significant adverse impacts to public health, safety and welfare including the environment and wildlife resources, that potential impacts were not adequately addressed and that potential impacts aren't adequately addressed by the rules and regulations of the Commission.

5.2 – CDPHE Responsibilities

The LGD may request a consultation with CDPHE on a Form 2 or Form 2A within the first fourteen (14) days of the forty (40) day consultation period (the 40 day consultation period begins with the start of the public comment period). The LGD must formally notify (in writing) the COGCC of a request to consult with CDPHE. CDPHE encourages the LGD to copy CDPHE on this request to expedite a decision on whether to consult and, if applicable, to complete its review and make recommendations to the COGCC. This recommended step is important because the consultation time period could be as short as 26 days, depending on how quickly the LGD makes a consultation request.

A consultation request from the LGD will involve a CDPHE review of the permit application and supporting information, as well as any additional information provided to CDPHE by the LGD. CDPHE will consider consultation requests based on this information. If the LGD consultation request does not identify specific concerns and provide any factual information that may be needed to support such concerns, CDPHE may not be able to develop consultation recommendations for submission to COGCC.

It is strongly recommended that LGDs provide CDPHE with any consultation request information and data conveying and supporting the need and basis for the consultation, as well as additional information that would be relevant to the consultation (e.g., mitigation options that would resolve local government's concerns). To the extent they can, based on knowledge of potential permit applications in their jurisdictions and related public health and environmental considerations, LGDs are also encouraged to contact the CDPHE Oil and Gas Consultation Coordinator before making a consultation request to discuss potential matters involving oil and gas development that may drive future consultation requests.

5.3 – Operator Responsibilities

Operators are strongly encouraged to contact the LGD prior to filing a Form 2A to determine if substantive concerns relative to public safety, health, welfare or impacts to the environment exist. In counties with oil and gas land use codes, early contact may not be necessary. When a county does request

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to be contacted prior to preparation of a Form 2A, operators are further encouraged to work with Local Governments to resolve issues prior to filing Form 2A.

If a consultation request is granted, the Operator may be asked by COGCC or CDPHE to provide additional data or to propose mitigation alternatives.

5.4 – Helpful Hints

1. In cases where LGDs indicate an interest in being contacted early, operators and LGDs are encouraged to meet prior to the time a Form 2 or Form 2A is submitted to identify and resolve public safety, health, welfare and environmental concerns.
2. Local Governments are encouraged to carefully describe and detail their consultation requests and to submit them at the earliest possible time within their allowable 14 days.
3. Operators are encouraged to complete applicable local permitting processes prior to submitting a Form 2 or Form 2A to minimize LGD concerns and subsequent potential consultation requests from LGDs.
4. Local governments are encouraged to appoint LGDs with knowledge of and experience with the oil and gas industry. LGDs are encouraged to visit rigs and understand the workings of the industry.
5. If LGDs are aware of issues that are not in the application, they are encouraged to submit this information in the materials they submit to build their case for CDPHE consultation.

6.0 - Rule 306.c: Consultation with the Division of Wildlife

This rule requires the Commission to consult with the Colorado Division of Wildlife (CDOW) on an oil and gas location assessment (Form 2A) under the following limited circumstances:

- Consultation is required pursuant to a provision in the 1200-Series Rules
- The operator seeks a variance from a provision in the 1200-Series Rules; or
- The CDOW requests consultation because the proposed oil and gas location would be within areas of known occurrence or habitat of a federally threatened or endangered species, as shown on the CDOW Species Activity Mapping (SAM) system.

It is strongly encouraged that operators work with the CDOW to address and resolve wildlife issues prior to the submittal of a Form 2A that is subject to consultation to minimize the chance that a Form 2A may need to be amended or supplemented, which could extend the review process

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6.1 - Operator Responsibilities

The operator is encouraged to contact the CDOW prior to submitting a Form 2A. Early communication with CDOW does not trigger the start of the forty (40) day public comment period, but it does help assure the operator's ability to submit a complete Form 2A and avoid permitting delays due to the lack of sufficient information and/or an incomplete Form 2A, for wildlife purposes. Also, if the operator anticipates submitting multiple Form 2As, then a CDP may be advised.

It is recommended that operators include with the Form 2A the following information:

- A description of the oil and gas location, including a topographic map or aerial photo showing the siting of all proposed facilities;
- A description of the affected wildlife resource, or the provision(s) of the 1200-Series Rules for which consultation is required;
- Any proposed measures to minimize adverse impacts to the affected wildlife resource; and
- Any additional information relevant to the consultation.

6.2 - CDOW Responsibilities

Upon receipt of a Form 2A, CDOW will conduct an initial screening and evaluate the Form 2A materials.

During consultation, CDOW may initiate additional discussions with the operator, surface owner, and COGCC staff. If additional information is required to allow the consultation to proceed, CDOW will contact the operator as soon as possible requesting the specific additional information that is required.

CDOW may determine that consultation is not necessary and waive the consultation opportunity in writing to the COGCC as soon as possible within the consultation timeframe presented in the COGCC rules.

6.2.1 - Process - Form 2As

The Rules require that the CDOW consultation process be completed within forty (40) days of the start of the public comment period or the requirement to consult shall be waived. Following the review of the proposed project, the CDOW may make written recommendations to the Oil and Gas Commission regarding conditions of approval and variance requests. The amount of time for a consultation may be as long as forty (40) days, however the CDOW may complete the consultation request in less than forty (40) days and will submit any recommendations in writing to the COGCC as soon as possible.

- The consultation process for a variance request will entail a review of the permit application and any additional information provided with the application or request for consultation, including the variance request and the basis for the request.
- Where applicable, the CDOW may also make written recommendations on whether a variance request should be granted, under what conditions, and the reasons for any such recommendations.

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Informal discussions between CDOW and the operator can occur at any time prior to the submitting of the Form 2A. These discussions can be beneficial to the operator and CDOW so that permitting reviews and approvals can move forward with little delay.

6.2.2 - Process - CDP's

The consultation process for a CDP under Rule 216 does not have the forty (40) day time constraint that is required in Rule 306. Many of the CDPs are intended to be geographic in nature and the review may be more extensive and time consuming than the review of a single Form 2A. Though an operator's decision to initiate and enter into a CDP is voluntary, the CDOW strongly encourages this planning effort. Not only does it facilitate discussions about potential impacts, and identify measures to avoid, minimize and mitigate adverse impacts to wildlife, an approved CDP facilitates multiple-Form 2A filings to the Commission.

6.3 - Helpful Hints

CDOW encourages operators to contact CDOW prior to submission of the Form 2A. Such communication will assist in conveying what information would be helpful to CDOW when making its recommendations to COGCC, and in collaboratively resolving wildlife issues prior to the permitting and approval process.

CDOW also strongly recommends that operator's initiate a CDP where appropriate. This detailed process, as outlined in Rule 216, results not only in permit specific conditions of approval to minimize adverse impacts to wildlife resources, but supports 'bulk' Form 2A reviews at COGCC. There are also options for developing wildlife mitigation plans or other wildlife protection plans or conservation plans that can be considered separate from a CDP or be incorporated as part of a CDP.

7.0 - Rule 306.d: Consultation with the Colorado Department of Public Health and Environment (CDPHE)

This rule requires and establishes procedures for consultation with the CDPHE. Specifically it requires the CDPHE consultation process to be completed within forty (40) days of the start of the public comment period; otherwise the requirement to consult shall be waived. Following review of the proposed project, CDPHE may make written recommendations to the COGCC regarding conditions of approval and variance requests. The amount of time available for a consultation may be as long as forty (40) days or as short as twenty-six (26) days if the LGD uses all fourteen (14) days to notify the COGCC of a request for consultation with the CDPHE. CDPHE will submit any recommendations in writing to the COGCC at the conclusion of its consultation.

The rule requires the COGCC to consult with the Colorado Department of Public Health and Environment (CDPHE) on an oil and gas location assessment (Form 2A) under the following limited circumstances:

- The local government designee requests consultation with CDPHE on a Form 2 or a Form 2A for concerns regarding public health, safety, and welfare, or impacts to the environment.
- The operator seeks a variance from a provision of one of the following rules intended to protect public health, safety welfare or the environment:

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- Rule 317B Public Water System Protection;
 - Rule 325 Underground Disposal of Water;
 - Rule 603 Drilling and Well Servicing Operations and High Density Area Rules;
 - Rule 608 Coalbed Methane Wells;
 - Rule 805 Odors and Dust;
 - 900-Series E&P Waste Management; and/or
 - Rule 1002.f. Stormwater Management.
- An operator requests a modification to an existing Commission order to increase well density or otherwise proposes to increase well density to more than one (1) well per forty (40) acres, or the Commission develops a basin-wide order that may have an impact on public health, safety, and welfare, or the environment.
 - The rule specifies that CDPHE has 10 days from the notice by COGCC Director of decision to approve an APD to request a hearing before the COGCC to resolve differences. If CDPHE requests a hearing, the Director's decision to approve an APD is not "final action" until after the requested hearing.
 - The rule allows CDPHE to waive the requirement to consult at any time.

7.1 Process

While CDPHE has 40 days to consult, consultation may occur in a shorter amount of time depending on the quality and completeness of information provided to support the consultation, including information recommended by CDPHE (see below), timing of initial discussions with the operator, complexity of consultation topics, workload at the time of consultation and involvement by LGDs. If needed, CDPHE will contact the operator as early as feasible after receiving the complete application to obtain additional information from the operator necessary to complete its review and to discuss any questions the agency may have. In no event will the consultation time period be less than that of the public comment period to ensure that CDPHE can consider public comment.

7.2 – Operator Responsibilities

Operators seeking a variance from the Director must check the variance request box on Form 2/2A. CDPHE strongly encourages operators planning to request a variance to contact the agency prior to submitting their Form 2/2A application to discuss the nature of the variance request. CDPHE urges operators making variance requests to provide information regarding the basis, need, alternative mitigation ideas and any other information that may be helpful to CDPHE evaluation of the request and development of its recommendations to the COGCC. By taking this step, operators will maximize their ability to streamline the consultation process. Operators expecting to or wishing to discuss the likelihood of triggering the CDPHE consultation requirements should contact the CDPHE

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Oil and Gas Consultation Coordinator .He will arrange a meeting between with appropriate CDPHE staff and the operators/others, as necessary.

7.3 - Local Government Designee (LGD) Responsibilities

The LGD may request a consultation with CDPHE on a Form 2 or Form 2A within the first fourteen (14) days of the forty (40) day consultation period (the 40 day consultation period begins with the start of the public comment period). The LGD must formally notify (in writing) the COGCC of a request to consult with CDPHE. CDPHE encourages the LGD to copy CDPHE on this request to expedite a decision on whether to consult and, if applicable, to complete its review and make recommendations to the COGCC. This recommended step is important because the consultation time period could be as short as 26 days, depending on how quickly the LGD makes a consultation request.

CDPHE also strongly recommends that LGDs provide with any consultation request information conveying the need and basis for the consultation, as well as additional information that would be relevant to the consultation. To the extent they can, based on knowledge of potential permit applications in their jurisdictions and related public health and environmental considerations, LGDs are also encouraged to contact the CDPHE Oil and Gas Consultation Coordinator before making a consultation request to discuss potential matters involving oil and gas development that may drive future consultation requests.

CDPHE encourages LGDs to communicate with local environmental health directors regarding questions and concerns involving public health and the environment associated with oil and gas development. CDPHE also encourages LGDs to contact the CDPHE oil and gas coordinator any time to ask questions pertaining the those aspects of the COGCC rules involving CDPHE, however reminds LGDs that the rules in question are COGCC's and to discuss all broader questions with the COGCC.

7.4 Public Responsibilities

The public is encouraged to communicate concerns and perspective informally and regularly to LGDs and CDPHE and to formulate all public comments to be substantive and offer specific information necessary to evaluate concerns. Comments, such as "we don't want the drilling operation in our community" do not provide sufficient information to allow CDPHE to be responsive.

7.5 - COGCC Responsibilities

COGCC must notify the relevant LGD and CDPHE (via electronic notice) that a permit application has been posted on the COGCC website for public comment. Notification must be concurrent with the posting.

Upon request by CDPHE, COGCC will discuss consultation issues with CDPHE staff, including attending possible meeting(s) with CDPHE and others.

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7.6 - CDPHE Responsibilities

Upon notification of a consultation request/trigger and receipt of the complete permit application, CDPHE will conduct an initial screening of the consultation request. If CDPHE determines that no additional consultation is necessary and that it will not submit recommendations to COGCC, the agency will alert COGCC as soon as possible in writing of its decision. If consultation proceeds, CDPHE may initiate discussions with the operator, LGD, surface owner, other interested parties and/or COGCC staff, as part of consultation review.

CDPHE consultation may differ depending upon various consultation types:

- **Variance Requests:** The consultation process will involve reviewing a permit application, including the variance request, and any associated information provided with the permit application, including alternative mitigation plans and may involve discussions with the operator or others. Upon completion of its review, CDPHE will submit its written recommendations to COGCC. CDPHE will copy and email the operator on its recommendation letter to the operator.
- **Well Density Increases:** The CDPHE consultation for well density increases requires the operator to provide information supporting the well density increase and any additional information deemed relevant by the operator. CDPHE's review will focus on the potentially increased public health and/or environmental impacts resulting from the surface disturbance associated with an increase in well density. CDPHE will evaluate this information and contact the operator or others if necessary to complete its review and provide recommendations to COGCC. CDPHE does not anticipate making recommendations to the COGCC as part of well density increase consultation that, for example, would require operators to reduce air emissions for Clean Air Act nonattainment purposes. However, depending on the situation, CDPHE could recommend to COGCC that operators conduct air quality monitoring to bolster efforts by the Air Quality Control Commission to manage Colorado's air quality. In short, CDPHE will not recommend public health and environmental protection measures that are the responsibility of the CDPHE and its Commissions to consider and promulgate, but could recommend measures that enhance our understanding of the contribution the oil and gas industry makes to public health and environmental challenges.
- **LGD Requests:** A consultation request from the LGD will involve a CDPHE review of the permit application and supporting information, as well as any additional information provided to CDPHE by the LGD. CDPHE will consider consultation requests based on this information. If the LGD consultation request does not identify specific concerns and provide any factual information that may be needed to support such concerns, CDPHE may not be able to develop consultation recommendations for submission to COGCC.

7.7 - Helpful Hints

- Operators seeking variances from any of the rules listed above are encouraged to contact CDPHE prior to submission of the Form 2A to discuss the basis for the variance. Such a

Manual for the rules effective April 1, 2009

discussion will assist in conveying what information would be helpful to CDPHE when reviewing the variance request and making its recommendations to COGCC.

- Operators are also encouraged to include in variance requests information the operator believes demonstrates how a proposed alternative to the applicable rule will provide substantially equivalent protection to public health, welfare and the environment. For example, operators wishing to obtain a variance from the requirement in Rule 805.b (Odors) prohibiting a pit with a potential to emit 5 tpy or greater constructed after the effective date of the rules from being located within 1/4 mile of a residence or building, would have to offer an alternative means for ensuring that the emissions from that pit can be maintained at 5 tpy or less.
- CDPHE anticipates that early (prior to submittal of a permit application) discussions with the operator and others regarding potential conditions necessary for granting a variance will facilitate rapid development of CDPHE recommendations and approval by COGCC. However, in no event will CDPHE finalize recommendations to the COGCC prior to the end of the public comment period.
- Operators are encouraged to complete applicable local permitting processes prior to submitting a Form 2/2A to minimize LGD concerns and subsequent potential consultation requests from LGDs.

Appendix I: Form 2, Application for Permit-to-Drill, Deepen, Re-Enter or Recomplete, and Operate

http://cogcc.state.co.us/Forms/PDF_Forms/form2_20051201.pdf

Appendix II: Form 2A, Oil and Gas Location Assessment

http://cogcc.state.co.us/forms/PDF_Forms/Form2A-20090306.pdf