

Comparison of State Oil and Gas Regulations and Local Ordinances Regarding Setbacks for the Intermountain West

Reclamation Category	State					
	Colorado	Wyoming	Utah	New Mexico	Montana	Alberta, Canada
General Standard / Objective	To better ensure timely and appropriate interim and final reclamation of wildlife habitat. ¹	To return the surface of the land to its original use. ²	Operator should try to establish surface use agreement with landowner about standard. ³	To regulate pits, closed-loop systems, below-grade tanks and sumps used in connection with oil and gas operations for the protection of public health, welfare and the environment. ⁴	Restoration of surface lands to previous grade and productive capacity. ⁵	That land used for oil and gas development is restored to a productive state. ⁶
Time horizons for starting reclamation	Interim reclamation within 6 months to reduce erosion potential for areas no longer in use. ⁷	WOGCC prefers that surface restoration and removal of unused equipment begin immediately after well plugging operations are complete. ⁸	Within one year following the plugging of a well unless an extension is approved by the division for just and reasonable cause. ⁹	The first growing season after the operator closes a pit or trench . . . the operator shall seed or plant the disturbed areas. ¹⁰		
Soil contamination		Oil-contaminated soils must be excavated and removed or treated. ¹¹				On private land industry has a lifetime liability for contamination. ¹²

¹ Colorado Oil and Gas Conservation Commission, Statement of Basis, Specific Statutory Authority, and Purpose 74 (2008), available at http://cogcc.state.co.us/RuleMaking/FinalDraftRules/FinalDraftRedlineSPB_121108.pdf.

² Wyoming Oil and Gas Conservation Commission, Guideline for Reclamation of Surface Areas Disturbed by Oil and Gas Drilling or Production Operations, Dec. 10, 2002, <http://wogcc.state.wy.us/craig/RECLAMATION2A.htm>.

³ Utah Admin. Code r. 649-3-34 (2009).

⁴ N.M. Code R. § 19.15.17.6 (Weil 2008).

⁵ Mont. Code Ann. 82-11-123(4) (2007).

⁶ Government of Alberta Reclamation and Remediation of Upstream Oil and Gas Program Overview, <http://environment.alberta.ca/1298.html> (last visited July 16, 2009).

⁷ 2 Colo. Code Regs. § 404-1 rule 1003(b) (2009).

⁸ Wyoming Oil and Gas Conservation Commission, Guideline for Reclamation of Surface Areas Disturbed by Oil and Gas Drilling or Production Operations, Dec. 10, 2002, <http://wogcc.state.wy.us/craig/RECLAMATION2A.htm>.

⁹ Utah Admin. Code r. 649-3-34 (2009).

¹⁰ N.M. Code R. § 19.15.17.13(I) (Weil 2008).

¹¹ Wyoming Oil and Gas Conservation Commission, Guideline for Reclamation of Surface Areas Disturbed by Oil and Gas Drilling or Production Operations, Dec. 10, 2002, <http://wogcc.state.wy.us/craig/RECLAMATION2A.htm>.

¹² Government of Alberta Reclamation and Remediation of Upstream Oil and Gas Program Overview, <http://environment.alberta.ca/1298.html> (last visited July 16, 2009).

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Erosion Control and recontouring	Areas needed for production operations also need to be stabilized to minimize erosion to the extent practicable. ¹³	Land sites must be recontoured unless landowner provides written release. ²	Agreement between landowner and operator may state requirements for contouring. ¹⁴		Restoration of surface lands to previous grade. ¹⁵	For forest reclamation sites, if gullying is found, evidence from pre-disturbance and/or similar off-site control areas that would suggest gullying is normally found must be provided to substantiate that the degree, spatial extent, rate, and severity of the documented on-lease gullying is consistent with the surrounding area. ¹⁶
Drill pit reclamation	Drilling pits must be closed and reclaimed no later than three months after drilling and completion activities on crop land and no later than six months after such activities conclude on non-crop land. ¹⁷	Production pit areas and reserve pits shall be reclaimed within one year of last use. ¹⁸		New Mexico is on schedule to completely eliminate use of unlined pits. Lined permanent pits shall be closed within 60 days of cessation of operation in accordance with a plan the environmental bureau approves. An operator shall close any other permitted temporary pit within six months from the date that the operator releases the rig. ¹⁹	All earthen pits used in association with drilling and completion operations must be closed and the surface restored according to board specifications within one year after the cessation of drilling operations. ²⁰ Within 10 days after the cessation of drilling or completion operations, all hydrocarbons must be removed from earthen pits used in association with drilling or completion operations or such pits must be fenced, screened, and netted. Such pits that contain water with more than 15,000 parts per million total dissolved solids or salt-based drilling fluids must be fenced within 90 days after the cessation of drilling and completion operations. ²¹	Pits not used in Alberta.

¹³ 2 Colo. Code Regs. § 404-1 rule 1003(b) (2009).

¹⁴ Utah Admin. Code r. 649-3-34 (2009).

¹⁵ Mont. Code Ann. 82-11-123(4) (2007).

¹⁶ Government of Alberta, *A Guide to: Reclamation Criteria for Wellsites and Associated Facilities – 2007 – Forested Lands in the Green Area Update* (2007), available at

http://www.srd.gov.ab.ca/lands/managingpublicland/pdf/Guide_to_Forested_Lands.pdf.

¹⁷ 2 Colo. Code Regs. § 404-1 rule 1003(d) (2009).

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On site burning or burial	None allowed. ²²					
Revegetation	Total plant cover of at least 80% pre-disturbance or reference area levels, excluding noxious weeds. Reseeding alone not sufficient, and disturbed areas must be reseeded in first favorable season following rig demobilization. ²³	All disturbed areas on state lands will be reseeded. ²⁴	Agreement between landowner and operator may state requirements for reseeded. ²⁵	70% native, perennial revegetation with at least 3 native plant species and one grass, excluding noxious weeds. Maintain cover through two successive growing seasons with no artificial irrigation. Repeat seeding or planting until it works. ²⁶	Restoration of surface lands to previous productive capacity. ²⁷	For forested sites, the presence of restricting layers within 50 cm of the surface is not permitted in reclaimed soil. ²⁸
Weeds	Weed control measures must comply with Colorado Noxious Weed Act. ²⁹			Noxious weeds not permitted during revegetation. ³⁰		
Reclamation Success	Final reclamation complete when all disturbed areas have been either built on, compacted, covered, paved, or otherwise stabilized to the extent practicable. ³¹		Bond liability shall remain in force until liability is released by the division. Operator must restore the wellsite. ³²			On private land, Industry has 25 year liability for surface reclamation issues (topography, vegetation, soil texture, drainage, etc) and a lifetime liability for contamination. ³³

¹⁸ 055-000-004 Wyo. Code R. § 1(qq) (Weil 2008), available at <http://soswy.state.wy.us/Rules/RULES/6855.pdf>.

¹⁹ N.M. Code R. § 19.15.17.13 (Weil 2008).

²⁰ Mont. Admin. R. 36-22-1005(4) (2007), available at <http://www.mtrules.org/gateway/RuleNo.asp?RN=36.22.1005>.

²¹ Mont. Admin. R. 36-22-1005(6) (2007), available at <http://www.mtrules.org/gateway/RuleNo.asp?RN=36.22.1005>.

²² 2 Colo. Code Regs. § 404-1 rule 1003(a) (2009).

²³ 2 Colo. Code Regs. § 404-1 rule 1003(e) (2009).

²⁴ 055-000-004 Wyo. Code R. § 1(ss) (Weil 2008), available at <http://soswy.state.wy.us/Rules/RULES/6855.pdf>.

²⁵ Utah Admin. Code r. 649-3-34 (2009).

²⁶ N.M. Code R. § 19.15.17.13(I) (Weil 2008).

²⁷ Mont. Code Ann. 82-11-123(4) (2007).

²⁸ Government of Alberta, *A Guide to: Reclamation Criteria for Wellsites and Associated Facilities – 2007 – Forested Lands in the Green Area Update* (2007), available at http://www.srd.gov.ab.ca/lands/managingpublicland/pdf/Guide_to_Forested_Lands.pdf.

²⁹ 2 Colo. Code Regs. § 404-1 rule 1003(f) (2009).

³⁰ N.M. Code R. § 19.15.17.13(I) (Weil 2008).

³¹ 2 Colo. Code Regs. § 404-1 rule 1004(d) (2009).

³² Utah Admin. Code r. 649-3-1(2) (2009).

³³ Government of Alberta Reclamation and Remediation of Upstream Oil and Gas Program Overview, <http://environment.alberta.ca/1298.html> (last visited July 16, 2009).

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Financial Assurance	Release of financial assurance will occur once final reclamation is complete and the site is appropriately revegetated. ³⁴	Before bond release, site must be inspected and approved. ³⁵	Bond liability shall remain in force until liability is released by the division. Operator must restore the wellsite. ³⁶	Irrevocable letter of credit or cash or surety bond running to the state of New Mexico conditioned that the ... location [be] restored and remediated in compliance with division rules. ³⁷		On private land, Industry has 25 year liability for surface reclamation issues (topography, vegetation, soil texture, drainage, etc) and a lifetime liability for contamination. ³⁸ Professional sign-off is required on all upstream land reclamation work. ³⁹

³⁴ 2 Colo. Code Regs. § 404-1 rule 1004(c) (2009).

³⁵ 055-000-003 Wyo. Code R. § 17 (Weil 2008), available at <http://soswy.state.wy.us/Rules/RULES/7188.pdf>.

³⁶ Utah Admin. Code r. 649-3-1(2) (2009).

³⁷ N.M. Code R. § 19.15.8.9 (Weil 2008).

³⁸ Government of Alberta Reclamation and Remediation of Upstream Oil and Gas Program Overview, <http://environment.alberta.ca/1298.html> (last visited July 16, 2009).

³⁹ Professional Sign Off for Upstream Oil and Gas Reclamation Certificate Work, <http://environment.alberta.ca/1298.html> (last visited July 16, 2009).