

Comparison of Oil and Gas Regulations for Wildlife in the Intermountain West

Regulation Type	Colorado	Montana	New Mexico	Utah	Wyoming
Overarching Principles Applicable to all Processes	Conditions of Approval: In selecting conditions of approval from such Best Management Practices or other sources, the Director shall consider the following factors, among other considerations: Anticipated direct and indirect effects of the proposed oil and gas location on wildlife resources. (COGCC Rules 1202(c)(3)(2009).)	None	None	None	Migratory Bird Treaty Act: "The United States Fish and Wildlife Service administers the Migratory Bird Treaty Act in Wyoming. Oil and gas owners or operators have to be aware of the obligation to comply with this regulation as they permit, construct, and maintain all facilities that may contain hydrocarbons or produced waters." (Chap. 4 § 1(c)(iv)).
Definitions	Wildlife Resources: "WILDLIFE RESOURCES shall mean fish, wildlife, and their aquatic and terrestrial habitats."(COGCC Rules 100 (2009)).	None	None	Pollution Definition: "[S]uch contamination or other alteration of the physical, chemical or biological properties of any waters of the state, or the discharge of any liquid, gaseous or solid substance into any waters of the state in such manner as will create a nuisance or render such waters harmful, detrimental or injurious to ...livestock, wild animals, birds, fish, or other aquatic life." (Utah Admin. r. 649-1-1 (2003)).	None
	Best Management Practices: BMPS "are practices that are designed to prevent or reduce impacts caused by oil and gas operations to air, water, soil, or biological resources, and to minimize adverse impacts to public health, safety and welfare, including the environment and wildlife resources." (COGCC Rules 100 (2009)).	None	None	None	None
	Minimize Adverse Impacts: shall mean "wherever reasonably practicable, to avoid adverse impacts to wildlife resources or significant adverse impacts to the environment from oil and gas operations, minimize the extent and severity of those impacts that cannot be avoided, mitigate the effects of unavoidable remaining impacts, and take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts." (COGCC Rules 100 (2009)).	None	None	None	None
	Restricted Surface Occupany Area: shall mean "rocky mountain bighorn sheep production areas; desert bighorn sheep production areas; (COGCC Rules 100 (2009)).	None	None	None	None

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	<p>Restricted Surface Occupany Area Continued: "areas within 0.6 miles of any greater sage-grouse, Gunnison sage-grouse, and lesser prairie chicken leks (strutting and booming grounds); areas within 0.4 miles of any Columbian sharp-tailed grouse or plains sharp-tailed grouse leks (strutting grounds);" (COGCC Rules 100 (2009)).</p>	None	None	None	None
	<p>Restricted Surface Occupany Area Continued: "areas within 1/4 mile of active Bald Eagle nest sites, Golden Eagle nest sites, or Osprey nest sites; areas within 1/2 mile of active Ferruginous Hawk nest sites, Northern Goshawk nest sites, Peregrine Falcon nest sites;; or Prairie Falcon nest sites;" (COGCC Rules 100 (2009)).</p>	None	None	None	None
	<p>Restricted Surface Occupancy Area Continued: "areas located within 300 feet of the ordinary high-water mark of any stream segment located within designated Cutthroat Trout habitat; and areas within 300 feet of the ordinary high-water mark of a stream or lake designated by the Colorado Division of Wildlife as "Gold Medal"" (COGCC Rules 100 (2009)).</p>	None	None	None	None
	<p>Sensitive Wildlife Habitat: shall mean: "mule deer critical winter range (being both mule deer winter concentration areas (that part of the winter range where densities are at least 200% of the surrounding winter range density during the same period used to define winter range in 5 out of 10 winters), and mule deer severe winter range (that part of the winter range where 90% of the individuals are located during the average 5 winters out of 10 from the first heave snowfall to spring green-up))(west of interstate 25 and excluding Las Animas County);" (COGCC Rules 100 (2009)).</p>	None	None	None	None

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	Sensitive Wildlife Habitat Continued: "elk winter concentration areas (west of interstate 25 and excluding Las Animas County); pronghorn antelope winter concentration areas (west of Interstate 25); bighorn sheep winter range; elk production areas (being that part of the overall range occupied by females for calving);" (COGCC Rules 100 (2009)).	None	None	None	None
	Sensitive Wildlife Habitat Continued: "Columbian sharp-tailed grouse and plains sharp-tailed grouse production areas (being an areas that contains 80% of nesting and brood rearing habitat for any identified population; greater sage-grouse and Gunnison sage-grouse production areas (being an area that contains 80% of nesting and brood rearing habitat for any population identified in the Colorado Greater Sage-Grouse Conservation Plan (CDOW, 2008) or the Gunnison Sage-Grouse Range-Wide Conservation plan (May 2005, respectively);" (COGCC Rules 100 (2009)).	None	None	None	None
	Sensitive Wildlife Habitat Continued: "lesser prairie chicken production areas (being an area that includes 80% of nesting and brood rearing habitat); black-footed ferret release areas; Bald Eagle nest sites and winter night roost sites; and Golden Eagle nest sites." (COGCC Rules 100 (2009)).	None	None	None	None
Report Events	None	None	None	Report of undesirable events: "immediate notification should be required for all major undesirable events as outlined in R649-3-32-5."	None
	None	None	None	Major Events to report: "Any spill, venting, or fire, regardless of the volume involved, that occurs in a sensitive area stipulated on the approval notice of the initial APD for a well, e.g., parks, recreation sites, wildlife refuges, lakes, reservoirs, streams, urban or suburban areas." (Utah Admin. Code r. 649-3-32(5.4) (2003)).	None

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Pits Generally	Pits Generally: Pits used for exploration and production of oil and gas shall be constructed and operated to protect public health, safety, and welfare and the environment, including soil, waters of the state, and wildlife, from significant adverse environmental, public health, or welfare impacts from E&P waste, except as permitted by applicable laws and regulations. (COGCC Rules 902(a) (2009)).	Open Vessels: "open storage vessels, earthen pits, or ponds that contain oil must be fenced and netted. (Mont. Admin. R. 36.22.1223(1)(2009)).	Fencing of pits: "The operator shall fence any other pit or below-grade tank to exclude livestock with a four foot fence that has at least four strands of barbed wire evenly spaced in the interval between one foot and four feet above ground level...The appropriate division district office may impose additional fencing requirements for protection of wildlife in particular areas." (N.M. Code R. § 19.15.17.11(d)(3) (2009)).	None	Pits in Critical Areas: "Sites considered for the placement of all pits are critical areas if they meet any of the following criteria: (iii) locations which are within five hundred feet (500') of wetlands, ponds, lakes." (Chap. 1 § 2(kk)(iii)).
	None	Open Receptacles: "open receptacles, earthen pits, or ponds that contain produced water with more than 15,000 ppm total dissolved solids must be fenced." (Mont. Admin. R. 36.22.1223(2) (2009)).	Pit lining material: "If a pit is lined, the liner shall be installed and maintained to prevent ingestion by livestock and wildlife." (N.M. Code R. § 19.15.17.10(A) (2009)).	None	Overarching principle that pits will not be approved if they endanger wildlife: "Applications to construct pits, provided for in these rules, shall be approved if the pit will not cause the contamination of surface or ground water, and endanger human health or wildlife." (Chap. 4 § 1).
	None	Closing of Earthen Pits: "Within 10 days after the cessation of drilling or completion operations, all hydrocarbons must be removed from earthen pits used in assoc. with drilling or completion ops. or such pits must be fenced, screened, and netted." (Mont. Admin. R. 36.22.1005(4) (2009)).	None	None	Retaining Pits: "When any retaining pit is located in an area with a high potential for communication between the pit contents and surface water or shallow ground water...or to provide protection to livestock and wildlife the Commission may require such modifications or changes in the owner's plan as it deems necessary including, but not limited to, running a closed system, lining the pit, installing monitoring systems, and providing additional reporting, or any other reasonable requirement that will insure the protection of fresh water". (Chap. 4 §
	None	Closing of Earthen Pits: "all earthen pits used in association with drilling and completion operations must be closed and the surface resorted according to board specifications within one year of cessation of drilling operations...exception may be granted...upon showing that...(a) no dumping or disposal of waste or fluids in the pit will occur; and (b) delayed closure of the pit will not present a risk of contamination to soils or water or a hazard to animals or persons. (Mont. Admin. R. 36.22.1005(6)	None	None	Reserve Pits: "Reserve pits shall be completely fenced and, if oil or other harmful substances are present, netted or otherwise secured at the time the rig substructure has been moved from the location in a manner that avoids the loss of wildlife, domestic animals, or migratory birds...because of the same concerns, produced water [has same conditions as well]" (Chap. 4 § 1(bb)) and Chap. 4 § 1(jj)).

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Netting Procedures	Screening/Netting: "b. Fired Vessel, Heater-Treater. (7) All stacks, vents, or other openings shall be equipped with screens or other appropriate equipment to prevent entry by wildlife, including migratory birds." (COGCC Rules 604(b)(7) (2009)).	None	Netting Procedures: "Operator shall ensure that a permanent pit or a permanent open top tank is screened, netted, or otherwise rendered non-hazardous to wildlife, including migratory birds." (N.M. Code R. § 19.15.17.11(E)(2009)). If netting not feasible operator must report on dead wildlife to the appropriate wildlife agency to figure out how to implement measures to prevent the deaths from occurring.	None	None
	Netting/Screening: "Where necessary to protect public health, safety and welfare or to prevent significant adverse environmental impacts resulting from access to a pit by wildlife, migratory birds, domestic animals, or members of the general public, operators shall install appropriate netting or fencing." (COGCC Rules 902(d) (2009)).	None	None	None	None
Overall Wildlife Protection	None	None	None	None	Overall Protection: "Owner must provide fencing or other reasonable means to prevent access to all pumps, pits, wellheads, production facilities which is reasonably adequate to secure the site in such a manner as to protect public health and safety concerns, wildlife, and livestock at the well location."(Chap. 4 § 4(a)(vi)).
Comprehensive Drilling Plans:	Purpose Of CDPs: "Comprehensive Drilling Plans are intended to identify foreseeable oil and gas activities in a defined geographic area, facilitate discussions about potential impacts, and identify measures to minimize adverse impacts to public health, safety, welfare, and the environment, including wildlife resources, from such activities. An operator's decisions to initiate and enter into a Comprehensive Drilling Plan are voluntary." (COGCC Rules 216(a) (2009)).	None	None	None	None

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	Information Requirements: Information Requirements for CDPs include: "a description of the wildlife resources at each oil and gas location; wildlife information that is determined necessary after consultation with the Colorado Division of Wildlife; Proposed best management practices or mitigation to minimize adverse impacts to resources such as air, water, or wildlife resources" (COGCC 216(c)(6)-(7) and (11) (2009)).	None	None	None	None
Oil and Gas Location Assessment Form 2A:	Information required: "If the final land use includes rangeland, forestry, recreation, or wildlife habitat, then a reference shall be selected" and "Designation of whether the proposed oil and gas location is within sensitive wildlife habitat or a restricted surface occupancy area." (COGCC Rules 303(d)(3)(F)(ii) and (d)(3)(M) (2009)).	None	None	None	None
	Withholding of Approval for APD Form 2: "The Director may withhold approval...when...the Director has reasonable cause to believe the proposed well or oil and gas location is in material violation of the Commission's rules...or otherwise presents a...material threat to wildlife resources." (COGCC Rules 303(m) (2009)).	None	None	None	None
Consultation:	Consultation Purpose: "The purpose of consultation under Rule 306.c is to allow the Director to determine whether conditions of approval are necessary to minimize adverse impacts from the proposed oil and gas operations in the identified sensitive wildlife habitat or restricted surface occupancy areas, in an order increasing well density, or in a basin-wide order involving wildlife resources issues and to evaluate requests for variances from the provisions of the 1200-Series Rules." (COGCC Rules 1202(a) (2009)).	None	None	None	None

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	<p>Procedure for Consultation: "The operator shall provide...(ii) any other relevant available information on the oil and gas operation, the affected wildlife resource...(iii) proposed mitigation for the affected wildlife resource." (COGCC Rules 306(c)(2)(A)(ii) and (iii) (2009)).</p>		None	None	None
	<p>Definition of Minimize Adverse Impacts under Consultation Rules: "minimize adverse impacts shall mean wherever reasonably practicable, to (i) avoid adverse impacts from oil and gas operations on wildlife resources, (ii) minimize the extent and severity of those impacts that cannot be avoided, (iii) mitigate the effects of unavoidable remaining impacts, and (iv) take into consideration cost-effectiveness and technical feasibility with regard to actions taken and decisions made to minimize adverse impacts to wildlife resources, consistent with the other provisions of the Act." (COGCC Rules 1202(a) (2009)).</p>		None	None	None
	<p>Consultation Shall Occur: when "The Colorado Division of Wildlife 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 Colorado Division of Wildlife Species Activity Mapping (SAM) system." And when "an operator requests a modification of 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 involving wildlife or wildlife-related environmental concerns or protections." (COGCC Rules 306(c)(1)(A)(iii) and (c)(1)(B) (2009)).</p>	None	None	None	None

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	<p>Results of Consultation: "As a result of consultation...the Colorado Division of Wildlife may make written recommendations to the Commission on conditions of approval necessary to minimize adverse impacts to wildlife resources." and "Where the consultation...results in permit-specific conditions of approval to minimize adverse impacts to wildlife resources, the Director shall attach such permit-specific conditions only with the consent of the affected surface owner." (COGCC Rules 306(c)(3)(A) and (C) (2009)).</p>	None	None	None	None
	<p>Consultation for New Oil and Gas Location: "when a proposed new oil and gas location is located in sensitive wildlife habitat...the Colorado Division of Wildlife shall consult with the operator, the surface owner, and the Director in accordance with Rule 306.c prior to approval of a Form 2A to identify possible conditions of approval." (COGCC Rules 1201(b) (2009)).</p>	None	None	None	None
	<p>Conditions of Approval Resulting from Consultation: "Any conditions of approval resulting from such consultation shall be guided by the list of Best Management Practices for Wildlife Resources maintained on the Commission website. In selecting conditions of approval from such Best Management Practices or other sources, the Director shall consider the following factors, among other considerations: (1) The Best Management Practices for the producing geologic basin in which the oil and gas location is situated;" (COGCC Rules 1202(c) (2009))</p>	None	None	None	None

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	Conditions of Approval Resulting from Consultation: "(2) Site-specific and species-specific factors of the proposed new oil and gas location; (3) Anticipated direct and indirect effects of the proposed oil and gas location on wildlife resources; (4) The extent to which conditions of approval will promote the use of existing facilities and reduction of new surface disturbance;" (COGCC Rules 1202(c) (2009))	None	None	None	None
	Conditions of Approval Resulting from Consultation: "(5) The extent to which legally accessible, technologically feasible, and economically practicable alternative sites exist for the proposed new oil and gas location; (6) The extent to which the proposed oil and gas operations will use technology and practices which are protective of the environment and wildlife resources; (7) The extent to which the proposed oil and gas location minimizes surface disturbance and habitat fragmentation;" (COGCC Rules 1202(c) (2009))	None	None	None	None
	Conditions of Approval Resulting from Consultation: "(8) The extent to which the proposed oil and gas location is within land used for residential, industrial, commercial, agricultural, or other purposes, and the existing disturbance associated with such use; and (9) Permit conditions, lease terms, and surface use agreements that predate December 11, 2008." (COGCC Rules 1202(c) (2009))	None	None	None	None
	Consultation is not required: Under various circumstances listed in COGCC Rules 1202(d) (2009))	None	None	None	None
Pollution:	Pollution: "The operator shall take precautions to prevent significant adverse environmental impacts to air, water, soil, or biological resources to the extent necessary to protect...the environment and wildlife resources." (COGCC Rules 324A(a) (2009)).	None	None	None	None

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Applications to the Commission:	Applications to the Commission: may be petitioned by the following parties: "The surface owner, solely to raise noncompliance with Commission rules or statute, or to allege potential adverse impacts to...the environment and wildlife resources, that are within the Commission's jurisdiction to remedy." (COGCC Rules 503(b)(7)(B) (2009)).	None	None	None	None
	Applications to the Commission Continued: may be petitioned by "The Colorado Division of Wildlife, solely to raise issues relating to minimizing adverse impacts to wildlife resources." (COGCC Rules 503(b)(7)(E) (2009)).	None	None	None	None
Local Public Forum:	Local Public Forum: "The rules and regulations of the Commission as they are applied to oil and gas operations are expected to adequately address impacts to...the environment and wildlife resources...a local forum may, however, be convened to consider potential issues related to...wildlife resources, that may be raised by an application to increased well density that may not be completely addressed by these rules or the Proposed Plan submitted pursuant to Rule 503.c." The rest of 508 has process rules for such a public forum with regards to wildlife resources. (COGCC Rules 508(b)(1)-(2) (2009)).	None	None	None	None
Fines:	Adjustment of Fines: "The fine may be increased...by application of the aggravating...factors [of]...(9) The violation results in significant, avoidable loss of wildlife or wildlife resources, including the ability of the land to produce vegetation supportive of wildlife." (COGCC Rules 523(d)(9) (2009)).	None	None	None	None

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Spills/Releases:	Spills/Releases Generally: "Spills/releases of E&P waste, including produced fluids, shall be controlled and contained immediately upon discovery to protect the environment,...and wildlife resources." (COGCC Rules 906 (2009)).	None	None	None	None
Siting Requirements:	Drill Pad Location: "Where feasible, operators shall use directional drilling to reduce cumulative impacts and adverse impacts on wildlife resources." (COGCC Rules 1002(d) (2009)).	None	None	None	None
	Surface Disturbance Minimization: "Where practicable, operators shall consolidate facilities and pipeline rights-of-way in order to minimize adverse impacts to wildlife resources, including fragmentation of wildlife habitat, as well as cumulative impacts." (COGCC Rules 1003(e)(3) (2009)).	None	None	None	None
Operating Requirements in Sensitive Habitat:	General Operating Requirements: "Within sensitive wildlife habitat and restricted surface occupancy areas, operators shall comply with the operating requirements listed below. (1) During pipeline construction for trenches that are left open for more than five (5) days and are greater than five (5) feet in width, install wildlife crossovers and escape ramps where the trench crosses well-defined game trails and at a minimum of one quarter (1/4) mile intervals where the trench parallels well-defined game trails." (COGCC Rules 1203(a)(1) (2009)).	None	None	None	None
	General Operating Requirements Continued: "(2) Inform and educate employees and contractors on wildlife conservation practices, including no harassment or feeding of wildlife." (COGCC Rules 1203(a)(2) (2009)).	None	None	None	None
	General Operating Requirements Continued: "(3) Consolidate new facilities to minimize impact to wildlife." (COGCC Rules 1203(a)(3) (2009)).	None	None	None	None

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	General Operating Requirements Continued: "(4) Minimize rig mobilization and demobilization where practicable by completing or re-completing all wells from a given well pad before moving rigs to a new location." (COGCC Rule 1203(a)(4) (2009)).	None	None	None	None
	General Operating Requirements Continued: "(5) To the extent practicable, share and consolidate new corridors for pipeline rights-of-way and roads to minimize surface disturbance." (COGCC Rule 1203(a)(5) (2009)).	None	None	None	None
	General Operating Requirements Continued: "(6) Engineer new pipelines to reduce field fitting and reduce excessive right-of-way widths and reclamation." (COGCC Rule 1203(a)(6) (2009)).	None	None	None	None
	General Operating Requirements Continued: "(7) Use boring instead of trenching across perennial streams considered critical fish habitat." (COGCC Rule 1203(a)(7) (2009)).	None	None	None	None
	General Operating Requirements Continued: "(8) Treat waste water pits and any associated pit containing water that provides a medium for breeding mosquitoes with Bti (<i>Bacillus thuringiensis v. israelensis</i>) or take other effective action to control mosquito larvae that may spread West Nile Virus to wildlife, especially grouse." (COGCC Rule 1203(a)(8) (2009)).	None	None	None	None
	General Operating Requirements Continued: "(9) Use wildlife appropriate seed mixes wherever allowed by surface owners and regulatory agencies." (COGCC Rule 1203(a)(9) (2009)).	None	None	None	None
	General Operating Requirements Continued: "(10) Mow or brushhog vegetation where appropriate, leaving root structure intact, instead of scraping the surface, where allowed by the surface owner." (COGCC Rule 1203(a)(10) (2009)).	None	None	None	None

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	<p>General Operating Requirements Continued: "(11) Limit access to oil and gas access roads where approved by surface owners, surface managing agencies, or local government, as appropriate." (COGCC Rule 1203(a)(11) (2009)).</p>	None	None	None	None
	<p>General Operating Requirements Continued: "(12) Post speed limits and caution signs to the extent allowed by surface owners, surface managing agencies, or local government, as appropriate." (COGCC Rule 1203(a)(12) (2009)).</p>	None	None	None	None
	<p>General Operating Requirements Continued: "(13) Use wildlife-appropriate fencing where acceptable to the surface owner." (COGCC Rule 1203(a)(13) (2009)).</p>	None	None	None	None
	<p>General Operating Requirements Continued: "(14) Use topographic features and vegetative screening to create seclusion areas, where acceptable to the surface owner." (COGCC Rule 1203(a)(14) (2009)).</p>	None	None	None	None
	<p>General Operating Requirements Continued: "(15) Use remote monitoring of well production to the extent practicable." (COGCC Rule 1203(a)(15) (2009)).</p>	None	None	None	None
	<p>General Operating Requirements Continued: "(16) Reduce traffic associated with transporting drilling water and produced liquids through the use of pipelines, large tanks, or other measures where technically feasible and economically practicable." (COGCC Rule 1203(a)(16) (2009)).</p>	None	None	None	None
Other General Wildlife Rules:	<p>Black Bear Habitat: "In black bear habitat west of Interstate 25 and on Raton Mesa east of Interstate 25, operators shall install and utilize bear-proof dumpsters and trash receptacle for food-related trash at all facilities that generate such trash." (COGCC Rules 1204(a)(1) (2009)).</p>	None	None	None	None

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	<p>Cutthroat Trout Habitat: "In designated Cutthroat Trout habitat...operators shall disinfect water suction hoses and water transportation tanks withdrawing from or discharging into surface wtaers (other than contained pits) used previously in another river, lake, pond, or wetland and discard rinse water in an approved disposal facility. Disinfection practices shall be repeated after completing work or before moving to the next water body..." (COGCC Rules 1204(a)(2) (2009)).</p>	None	None	None	None
	<p>Transportation Networks: "To minimize adverse impacts to wildlife resources, plan new transportation networks and new oil and gas facilities to minimize surface disturbance and the number and length of oil and gas roads and utilize common roads, rights of way, and access points to the extent practicable, consistent with these rules, an operator's operational requirements, and any requirement imposed by federal and state land management agencies, local government regulations, and surface use agreements and other surface owner requirements, and taking into account cost effectiveness and technical feasibility." (COGCC Rules 1204(a)(3) (2009)).</p>	None	None	None	None