



ECMC WILDLIFE MITIGATION PLAN OPERATOR GUIDANCE

Rule 304.c.(17). - Wildlife Mitigation Plan

Document Control

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Rule Citation

304.c.(17).

A Wildlife Protection Plan or Wildlife Mitigation Plan consistent with the requirements of Rule 1201.

Associated rules are included in Appendix A.

Purpose of Wildlife Mitigation Plan

A Wildlife Mitigation Plan is required when the Oil and Gas Location is within a High Priority Habitat (HPH).

The purpose of the Wildlife Mitigation Plan is to provide ECMC with details regarding how the operator will conduct Oil and Gas Operations in relation to Rule 1202.c. or 1202.d. High Priority Habitats, as well as additional sensitive wildlife habitats.

The Wildlife Mitigation Plan is intended to provide ECMC with the operator's plan for implementing several aspects of the rules, including, but not limited to:

1. enforceability of wildlife conditions of approval (COAs) and identifying appropriate CPW-developed BMPs to be placed on the Form 2A;

2. waivers and on-site consultations;
3. discussion of avoidance;
4. use of netting and fencing; and
5. determination of appropriate compensatory mitigation when impacts cannot be avoided.

Guidance/Requirements

1. The operator will develop a Wildlife Mitigation Plan and an associated set of BMPs to identify processes, operational practices, and/or strategies designed to meet the requirements of ECMC's Rules 1201.b, 1202.a, c, and d. (see Appendix), and any wildlife requirements of other overseeing agencies, such as CPW, Bureau of Land Management (BLM), United States Fish and Wildlife Service (USFWS), United States Forest Service (USFS), State Land Board (SLB), and/or local government agencies.
2. Multi-location, landscape-scale Wildlife Mitigation Plans are typically implemented in approximately 5-year timeframes, in agreement with CPW, ECMC, and the operator. This document should address the following information, operations, procedures, and documentation requirements:
 - a. A map displaying the Oil and Gas Location(s) or geographic boundary of the Wildlife Mitigation Plan (if the plan is addressing multiple locations or a larger area where future Oil and Gas Locations may be proposed).
 - b. A list of HPHs intersecting the total areas of disturbance, including access road(s), pipeline/utility corridors, actual Oil and Gas Location (well pad, tank battery, production pad, compressor station, etc.) and a

breakdown (by acreage) of the types and the number of acres of surface disturbance (new or expanded) within HPHs.

- c. A description of all pre-application consultation with CPW, including results of the Alternative Location Analysis (ALA) pursuant to Rule 304.b.(2).B.viii., identifying site-specific measures taken to Avoid, Minimize, and/or Mitigate Adverse Impacts to Wildlife Resources.
- d. A description of BMPs developed for the proposed Oil and Gas Operations that the Operator will implement to minimize impacts to wildlife during construction, drilling, completions, and the production phase of the facility. Where applicable, these should align with the BMPs that the Operator submits on the “Wildlife Section” of the Form 2A permit application.
- e. A description of how the Operator is implementing each of the HPH operating requirements described in Rule 1202; or an explanation as to why they may not be applicable/necessary. If claiming a requirements are not applicable, Operators must submit written documentation that CPW concurs with that determination.
- f. A description of the mitigation commitments to offset Unavoidable Adverse Impacts to Wildlife Resources.
 - i. Direct Impact Mitigation (as necessary): Describe how the Operator intends to mitigate for the direct impacts to Rule 1202.d. High Priority Habitats by paying a mitigation fee, completing (or causing to be completed) a mitigation project approved by CPW, or a combination of both. If the operator is completing their own compensatory mitigation for direct and/or indirect impacts, the Compensatory Mitigation Plan should be

included within the overall Wildlife Mitigation Plan document.
(See Rules 1203.a., 1203.b., and 1203.c.)

- ii. Indirect Impact Mitigation (as necessary): Describe compensatory mitigation to be fulfilled by the Operator to offset the indirect impacts identified during consultation with CPW and in consideration of factors outlined in Rule 1203.d.(2).A-E. through a mitigation fee, operator completed project, habitat banking system, or a combination of these measures. (See Rule 1203.d.)
 - g. Other pertinent wildlife information regarding the area proposed for development, including, but not limited to: wildlife surveys performed by an independent third party, USFWS consultations for federal Threatened and Endangered species, variance/waiver requests, or other pertinent information or data.
3. While not specifically identified by Rules, wetlands are considered sensitive habitats and areas. If there are potential wetlands within 500 feet of the Oil and Gas Location, ECMC strongly encourages that they be included with this plan.
- a. Include any surveys conducted to determine wetland status.
 - b. If USACE wetland determination forms are used to delineate a wetland, they should always be included.
 - c. Include the credentials of the person performing the wetland delineation.

Additional Information

Common Errors and Issues Encountered by ECMC Staff

1. CPW pre-app consultation and/or correspondence is not included in the plan materials.
2. Wetland delineations do not contain sufficient information for ECMC review.

General Notes

1. The 1200-Series rules provide the framework for planning Oil and Gas Operations in a manner that minimizes impacts to sensitive wildlife species and habitat. The rules require notifying CPW, and allowing for consultation during the OGDG permitting process. At the time of consultation, sensitive species and habitats can be identified, and methods can be discussed to avoid, minimize, and mitigate impacts to wildlife.
2. For separate non-Rule-Based information, we encourage operators to reference the following resources as applicable. Sources that may be reviewed during the preparation of this attachment include, but are not limited to:
 - a. Critical Habitat IPaC Report: <https://ecos.fws.gov/ipac/>
 - b. Migratory Birds: <https://www.fws.gov/birds/index.php>
 - c. State Protected Species:
<https://cpw.state.co.us/learn/Pages/SpeciesProfiles.aspx>
 - d. Buffer Zones and Seasonal Restrictions for Colorado Raptors:
<https://cpw.state.co.us/Documents/WildlifeSpecies/LivingWithWildlife/Raptor-Buffer-Guidelines.pdf>
 - e. The Wildlife Protection Plan should include a list of all sources used in the review and evaluation process and should be included in a separate section dedicated to references.

Frequently Asked Questions

1. Can an Operator work with CPW to create an area-wide Wildlife Mitigation Plan that applies to multiple OGDGs/locations?

ECMC Response: Yes, as long as that plan addresses all the rule requirements.

Document Change Log

Change Date	Description of Changes
April 1, 2025	Guidance drafted to reflect Dec 2025 Rules
June 16, 2025	Reviewed, ADA accessibility verified, prepared for publication

Appendix A - Associated Rules

1201.b. Wildlife Mitigation Plan.

Proposed Oil and Gas Operations on new or amended Oil and Gas Locations within High Priority Habitat (HPH) require a Wildlife Mitigation Plan that includes a description of the Rule 1202.a. Operating requirements, and the additional operating and mitigation requirements in Rules 1201.b.(1)-(4), 1202, and 1203. Wildlife Mitigation Plans may address one or multiple Oil and Gas Locations. Pre-existing Colorado Parks and Wildlife (CPW)-approved Wildlife Mitigation Plans in effect on January 15, 2021 may meet these requirements subject to written concurrence from CPW that the Wildlife Mitigation Plan satisfies the requirements of this Rule 1201.b. The Wildlife Mitigation Plan will include the following:

- (1) A description of any pre-application consultation with CPW, which may include an alternative location analysis pursuant to Rule 304.b.(2).B.viii., or identifying site-specific measures to Avoid, Minimize, or Mitigate Adverse Impacts to Wildlife Resources;
- (2) A description of Best Management Practices (BMPs) incorporated into the proposed Oil and Gas Operations that the Operator commits to implementing for the purposes of minimizing impacts to wildlife;
- (3) A description of the Rule 1202.b. operating requirements applicable to the Oil and Gas Location; and
- (4) A description of the Rule 1203 mitigation commitments to offset Unavoidable Adverse Impacts to Wildlife Resources.

1202.

- a. The operating requirements identified in this Rule 1202.a apply to Oil and Gas Operations statewide unless the Operator obtains a signed waiver from CPW and the Director or Commission approves a Form 4, Sundry Notice or Form 2A documenting the relief.

- (1) In black bear habitat, Operators will install and utilize bear-proof dumpsters and trash receptacles for food-related trash at all facilities that generate trash.
- (2) Operators will disinfect water suction hoses and water transportation Tanks withdrawing from or discharging into surface waters (other than contained Pits) used previously in another river, intermittent or perennial stream, lake, pond, or wetland and discard rinse water in an approved disposal facility. Disinfection practices will be repeated prior to completing work and before moving to the next water body. Disinfection will be performed by scrubbing and pre-rinsing equipment away from water bodies to remove all mud, plants, and organic materials and then by implementing one of the following practices:
 - A. Spray/soak equipment with a CPW-approved disinfectant solution capable of killing whirling disease spores and other aquatic nuisance species defined by CPW; or
 - B. Spray/soak equipment with water greater than 140° Fahrenheit for at least 10 minutes. All equipment and any compartments they contain will be completely drained and dried between each use.
- (3) At new and existing Oil and Gas Locations, Operators will not situate new staging, refueling, or Chemical storage areas within 500 feet of the Ordinary High Water Mark (“OHWM”) of any river, perennial or intermittent stream, lake, pond, or wetland.
- (4) To prevent access by wildlife, including birds and bats, Operators will fence and net or install other CPW-approved exclusion devices on new Drilling Pits, Production Pits, and other Pits associated with Oil and Gas Operations that are intended to contain Fluids.
 - A. Such fencing and netting or other CPW-approved exclusion device will be installed within 5 days after the cessation of active drilling and completion activities and maintained until the Pit is removed

from service and dried or closed pursuant to the Commission's 900 Series Rules.

- B. The Director may require an Operator to fence and net or install other CPW-approved exclusion devices on an existing Pit if the Director determines that the installation is necessary and reasonable to protect Wildlife Resources based on the analysis required by Rule 909.j, or other information that demonstrates additional protections for Wildlife Resources are appropriate.
 - C. Operators will properly maintain and repair all fences, nets, and CPW-approved exclusion devices required by this Rule 1202.a.(4).
- (5) For trenches that are left open for more than 5 consecutive days during construction of Pipelines regulated pursuant to the Commission's 1100 Series Rules, Operators will install wildlife escape ramps at a minimum of one ramp per 1/4 mile of trench.
 - (6) When conducting interim and final Reclamation pursuant to Rules 1003 and 1004, Operators will use CPW-recommended seed mixes for Reclamation when consistent with the Surface Owner's approval and any local soil conservation district requirements.
 - (7) Operators will use CPW-recommended fence designs when consistent with the Surface Owner's approval and any Relevant Local Government requirements.
 - (8) Operators will conduct all vegetation removal necessary for Oil and Gas Operations outside of the nesting season for migratory birds (April 1 to August 31). For any vegetation removal that must be scheduled between April 1 to August 31, Operators may implement appropriate hazing or other exclusion measures prior to April 1 to avoid take of migratory birds. If hazing or other exclusion measures are not implemented, Operators will conduct pre-construction nesting migratory bird surveys within the approved disturbance area prior to any vegetation removal

during the nesting season. If active nests are located, Operators will provide work zone buffers around active nests.

- (9) Operators will treat Drilling Pits, Production Pits, and any other Pit associated with Oil and Gas Operations containing water that provides a medium for breeding mosquitoes with Bti (*Bacillus thuringiensis v. israelensis*) or take other effective action to control mosquito larvae that may spread West Nile virus to Wildlife Resources. Such treatment will be conducted in a manner which will not adversely affect aquatic Wildlife Resources.
- (10) Operators will employ the following minimum Best Management Practices on new Oil and Gas Locations with a Working Pad Surface located between 500 feet and 1000 feet hydraulically upgradient from a High Priority Habitat identified in Rule 1202.c.(1).Q-S:
 - A. Contain Flowback and Stimulation Fluids in Tanks that are placed on a Working Pad Surface in an area with downgradient perimeter berming;
 - B. Construct lined berms or other lined containment devices pursuant to Rule 603.o around any new crude oil, condensate, and produced water storage Tanks that are installed after January 15, 2021;
 - C. Inspect the Oil and Location on a daily basis, unless the approved Form 2A provides for different inspection frequency or alternative method of compliance;
 - D. Maintain adequate Spill response equipment at the Oil and Gas Location during drilling and completion operations; and
 - E. Not construct or utilize any Pits, except that Operators may continue to utilize existing Pits that were properly permitted, constructed, operated, and maintained in compliance prior to January 15, 2021.

- b. Operators will bore, rather than trench, Flowline and utility crossings of perennial streams identified as aquatic High Priority Habitat unless the Operator obtains a signed waiver from CPW and the Director or Commission approves a Form 4 or Form 2A documenting the relief. When installing culverts or bridges, such structures will not impact or prevent the passage of fish unless otherwise directed by CPW.
- c. Except as specified pursuant to Rule 1202.c.(2), Operators will not conduct any new ground disturbance and Well work, including access road and pad construction, drilling and completion activities, and Flowline/utility corridor clearing and installation activities in the High Priority Habitats listed in Rule 1202.c.(1).

(1) High Priority Habitats subject to this Rule 1202.c. include:

- A. Columbian sharp-tailed grouse (within 0.6 miles of lek site);
- B. Greater prairie chicken (within 0.6 miles of the lek site);
- C. Greater sage-grouse (within 1.0 miles of the lek site);
- D. Gunnison sage-grouse (within 1.0 miles of the lek site);
- E. Lesser prairie chicken (within 1.25 miles of lek site);
- F. Plains sharp-tailed grouse (within 0.4 miles of the lek site);
- G. Bald Eagle (within 0.25 miles of an active nest);
- H. Ferruginous hawk (within 0.5 miles of an active nest);
- I. Golden eagle (within 0.25 miles of an active nest);
- J. Northern goshawk (within 0.5 miles of an active nest);
- K. Peregrine falcon (within 0.5 miles of an active nest);
- L. Prairie falcon (within 0.5 miles of an active nest);
- M. Least tern production area;
- N. Piping plover production area;
- O. Townsend's big-eared bat, Mexican free-tailed bat, and myotis (within 350 feet of winter hibernacula);
- P. Bighorn sheep production area;

- Q. Water identified by CPW as “Gold Medal” (Within 500 feet of OHWM);
- R. Cutthroat trout designed crucial habitat and native fish and other native aquatic species conservation waters (within 500 feet of OHWM);
- S. Sportfish management waters identified by CPW as “Gold Medal” (within 500 feet of OHWM); and
- T. CPW-owned State Wildlife Areas and State Parks

(2) This Rule 1202.c. does not apply to:

- A. Production operations at existing Oil and Gas Locations, including:
 - i. Routine maintenance, repairs, and replacements of Production Facilities that do not require a drilling or workover rig; Emergency operations;
 - ii. Spill and Release response;
 - iii. Ongoing Reclamation and site maintenance activities;
 - iv. Habitat improvements that have been approved by CPW or the Commission to Mitigate Adverse Impacts to Wildlife Resources at existing facilities; or
 - v. Commission- or Director-requested work.
- B. Non-emergency workovers, including uphole recompletions, plugging operations, and site investigation and Remediation at existing Oil and Gas Locations, if:
 - i. The Operator has obtained prior approval from the Director;
 - ii. The Operator has consulted with CPW; and
 - iii. The Operator Minimizes Adverse Impacts to the species for which the High Priority Habitat exists.
- C. Access road construction and Flowline/utility corridor clearing and installation activities within the High Priority Habitat identified in

Rules 1202.c.(1).Q-S in association with an approved Form 2A may be allowed subject to Best Management Practices or other avoidance measures agreed to in consultation with CPW.

d. All Oil and Gas Development Plans submitted after January 15, 2021, including amendments to previously-approved Form 2As, that cause the density of Oil and Gas Locations to exceed 1 per square mile in the High Priority Habitat listed in Rule 1202.d require a CPW-approved Wildlife Mitigation Plan pursuant to Rule 1201.b or other CPW-approved conservation plan and compensatory mitigation for Wildlife Resources pursuant to Rule 1203. This Rule 1202.d applies to the following High Priority Habitat types:

1. Bighorn sheep migration corridors and winter range;
2. Elk migration corridors, production areas, severe winter range, and winter concentration areas;
3. Mule deer migration corridors, severe winter range, and winter concentration areas;
4. Pronghorn migration corridors and winter concentration areas;
5. Greater sage-grouse priority habitat management areas;
6. Columbian sharp-tailed group production areas;
7. Greater prairie chicken production areas;
8. Gunnison sage-grouse occupied habitat and production areas;
9. Lesser prairie chicken focal areas; and
10. Plains sharp-tailed grouse production areas.

Appendix B - Rule Definition and Non Rule-Based Information

1. Wildlife Mitigation Plan means a document submitted pursuant to Rules 304.c.(17). And 1201.b. For a Location within HPH that describes the

implementation of operating requirements pursuant to Rules 1202.a., 1202.b., and 1202.c., as well as any mitigation requirements pursuant to Rules 1202.d., and 1203. A Compensatory Mitigation Plan to offset the direct and Unavoidable Adverse indirect Impacts to Wildlife Resources pursuant to Rule 1203.b. may be a component of the Wildlife Mitigation Plan.