



ECMC SITING REQUIREMENTS FOR PROPOSED LOCATIONS/INFORMED CONSENT GUIDANCE

FORM 2A

Rule 604.b.(1). - Siting Requirements for Proposed Locations/Informed Consent

Document Control

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Rule Citation

604.b. Siting Requirements for Proposed Oil and Gas Locations Near Residential Building Units and High Occupancy Building Units.

No Working Pad Surface (WPS) will be located more than 500 feet and less than 2,000 feet from 1 or more Residential Building Units or High Occupancy Building Units unless one or more of the following conditions are satisfied:

- (1) The Residential Building Unit owners and tenants and High Occupancy Building Unit owners and tenants within 2,000 feet of the Working Pad Surface explicitly agree with **informed consent** to the proposed Oil and Gas Location;

Associated Rules are included in Appendix A.

Note: this Rule is commonly referred to as “Informed Consent.”

Purpose of Rule

The purpose of the 604 Setbacks and Siting Requirements Series Rules are to protect public safety and ensure a 2,000 foot setback from Residential Building Units (RBUs) and High Occupancy Building Units (HOBUs).

Rule 604.b.(1). provides that a WPS may be located between 500 and 2,000 feet of an RBU or HOBU if the Operator obtains explicit written agreement from every RBU owner and tenants within 2,000 feet of the proposed WPS.

- A. This rule is intended to provide Operators a means by which a proposed Oil and Gas Development Plan (OGDP) may be approved for operations within 2,000 feet of an RBU(s) and/or a HOBU(s).
- B. Additionally, this rule ensures that any RBU owner or tenant that provides consent for such operations is provided adequate information regarding the proposed development, in order to make an informed consent to the impacts and potential risks associated with the oil and gas operations.

Guidance/Requirements

Set of Requirements

If an Operator decides to seek the informed consent of a RBU or HOBU owner or tenant for a Form 2A permit application, the Operator should generally follow these steps:

1. Identify all RBUs and HOBUs that are at or within 2,000 feet of the proposed WPS:
 - a. If a multifamily RBU is identified (e.g. a duplex or a three-unit townhouse) or a multifamily HOBU (e.g. a fourplex or 10-unit apartment), each individual residential unit must be counted as an individual unit and be included in the informed consent outreach effort.

2. Identify the address and the legal owner of each RBU and HOBUE, utilizing public records and any other applicable sources:
 - a. If a RBU is owned by one person, but another person is living there as a tenant, both people must receive the information.
 - b. Informed consent mailing shall be sent to both the mailing address of a RBU/HOBUE owner and the physical address of the affected RBU/HOBUE, if the owner receives their mail elsewhere.
 - c. The mailing should be addressed to the owner and resident by name if known; if RBU/HOBUE ownership or tenancy is unknown, address the mailing to "Resident."
 - d. If mailing addresses are unknown or if Operator prefers, the necessary information may be hand delivered directly to the RBU/HOBUE using the physical address.
3. Provide each RBU/HOBUE owner and tenant with a formal request for informed consent and all required information related to the proposed OGDPE operations, to include:
 - a. An informed consent request letter.
 - i. Use the Informed Consent Template Letter, either statewide template or Weld County template (see General Notes).
 - ii. Operators can use their own letter that clearly demonstrates that the recipient has been fully informed and has provided consent to the proposed operations.
 - iii. Consent shall include signature of each RBU/HOBUE owner and all tenants, the date, and must be in a language that the signators understand.

- b. A description of the physical setting of the proposed Location, including the legal description, and a map showing the WPS proximity to the RBU.
 - i. The map should show the 2,000 foot buffer from the edge of the WPS.
 - ii. The map should include the coordinates (latitude and longitude) and the legal description of the proposed Location, but should primarily incorporate local descriptions (e.g. road intersection and/or property names) that the RBU owner or tenant will be familiar with.
- c. A description of the Alternative Location Analysis (ALA).
 - i. Summarize the analysis taken by the Operator in determining the proposed Location is the most protective location in which the targeted minerals can be accessed. This summary should identify all potential alternate locations that were considered.
 - ii. The ALA should include a map illustrating all alternate locations analyzed, including the proposed Location, and the applicable RBU or HOBV.
- d. A description of the mineral development area, the number of proposed wells, types of equipment, and other on- and off-location infrastructure related to anticipated operations.
 - i. Provide a map showing the outline of the Drilling and Spacing Unit (DSU) to be developed by the proposed Location; the map should include the Location, the wellbore trajectory of the proposed wells on that Location, and the location of the subject RBU.
 - ii. Provide a facility layout drawing that depicts the proposed Location, including illustration of the proposed wells, facility equipment, and the direction of any off-location flowlines.
- e. A description of the proposed timeline of operations, including estimates for the duration of each operation (i.e. construction, drilling, completions, flowback, interim reclamation, production, and final reclamation).

- i. Timelines and durations should be provided using months or quarters, and years, as is reasonably anticipated.
- f. A description of the anticipated impacts that the RBU owner or tenant may experience during each stage of operations, which may include noise, vibration, light, odor, dust, traffic, and visual impacts.
 - i. Provide realistic descriptions that the RBU owner or tenant can relate to.
 - ii. Describe the daily routine and timing of likely impacts (e.g. lights on the rig will be on continuously during drilling, but upon the production phase, the only permanent lighting will be a motion sensor on the meter house).
 - iii. Provide a summary of ECMC's applicable rule requirements for each of the anticipated impacts (e.g. Rule 423 maximum permissible noise levels).
 - iv. Provide a summary on how the Operator will reduce or mitigate said impacts.
- g. A description of potential adverse or beneficial impacts that the RBU/HOBUE owner or tenant may experience as a result of the planned operations, including but not limited to, scientific information discussing potential health impacts that are likely attributable to living in close proximity to oil and gas development.
 - i. At a minimum, include the Health Study Information Sheet or equivalent information.
- h. Any additional information specific and relevant to the proposed Location or operations that may be important for a RBU/HOBUE owner or tenant to fully understand the proposal prior to making a consent determination. Examples may include, but are not limited to:
 - i. If part of a Comprehensive Area Plan (CAP), the Operator should communicate this and explain what a CAP is.
 - ii. A description of any Best Management Practice (BMP) committed to by the Operator.
 - iii. Identification of all applicable ALA criteria met by the proposed Location.

- iv. The number of RBU/HOBUs owners and tenants subject to a request for informed consent.
- i. Contact information for the Operator, Relevant Local Government (RLG), Proximate Local Government(s), and the ECMC.
 - i. Provide the name, direct phone number, and email address of the Operator to whom questions can be directed to. This should not be a 24-hour hotline.
 - ii. Provide the name, phone number, email address, and website (if available) of the RLG. If the RLG requires a local permit, description on the local permitting process and permit status should be included.
 - iii. Provide the contact information for the ECMC, including phone number and website address.
- j. Provide a self-addressed stamped envelope, or other convenient means, by which the RBU/HOBUs owner or tenant can easily respond to the Operator's request and provide informed consent if desired.
- 4. The Operator must be available to answer any questions the RBU/HOBUs owner or tenant may have.
- 5. The Informed Consent Attachment to the Form 2A must include the executed informed consent letters from all RBU owners and tenants and all HOBUs within 2,000 feet from the WPS, as well as document the information shared with the RBU/HOBUs owners and tenants.

Additional Information

Common Errors and Issues Encountered by ECMC Staff

- 1. N/A

General Notes

- 1. If a proposed Location is more than 500 feet and less than 2,000 feet from the nearest RBU or HOBUs, but has Preliminary Siting Approval (PSA) through an

approved Comprehensive Area Plan (CAP), then informed consent is not required.

2. If a WPS is equal to or less than 2,000 feet away from the nearest RBU or HOBUs, but all wells and equipment are more than 2,000 feet from all RBU or HOBUs, then informed consent is not required.
3. In order for the Operator to apply for an OGD seeking Rule 604.b.(1). criteria, all owners and tenants of affected RBUs and HOBUs must grant informed consent. A Surface Use Agreement (SUA) is an agreement to the use of land and does not provide informed consent from an RBU owner; Informed consent (if required) is in addition to the executed SUA requirement. If informed consent is needed, but not obtained, the Commission may find after a hearing pursuant to Rule 510, that the proposed Location and COAs will provide substantially equivalent protections for public health, safety, welfare, the environment, and wildlife resources pursuant to Rule 604.b.(4).
4. Informed consent incorporates two equally important components, both of which must be clearly understood by the person who is consenting:
 - a. “Informed” means that the person has been provided all pertinent information about the proposed OGD, and comprehends the information to a degree in which the person could describe the proposal in their own words. The understanding must include the recognition of the possible risks associated with the proposed OGD.
 - b. “Consent” means that the person agrees to allow the proposed operations of the OGD, and thereby, accepts the possible risks associated with the proposed OGD. It does not mean they consent to any significant or unannounced changes.
5. Informed consent must be voluntarily given by a RBU/HOBUs owner/tenant.

6. Information should be provided in “plain” language to the greatest extent possible. Technical jargon and acronyms should be avoided as much as possible. Photos, maps, and diagrams should be easy to read and interpret for someone who is not familiar with the oil and gas industry. The audience and their needs should be considered when compiling information for dissemination.
7. Information should be provided in the RBU/HOBu owner’s primary language. A translator should be provided if a RBU owner or tenant has questions and English is not their primary language. Obtaining translational services and ensuring accuracy is the responsibility of the Operator.
8. Every signed informed consent letter will become part of the public record upon the OGDp passing completeness. Every signed informed consent letter must be attached to the Form 2A. If the signer requests that their personal information be kept confidential, ECMC Staff may redact signatures, names, or house numbers to ensure the privacy of the signer, but the street name will not be redacted.
9. All owners of record for each RBU/HOBu and all tenants must provide consent. If the public record shows two owners, then consent from both owners is required.
10. Informed Consent Template Letters, either statewide template or Weld County template, are located on the ECMC website under Operator Guidance. Additionally, the information sheets on the ECMC permitting process are also located on the ECMC website under Operator Guidance.

Frequently Asked Questions

1. N/A

Document Change Log

| Change Date | Description of Changes |
|--------------------|--|
| April 6, 2021 | First version of this guidance document finalized |
| May 9, 2025 | 2025 Revamp initial draft complete |
| June 5, 2025 | Reviewed |
| June 17, 2025 | ADA accessibility verified, prepared for publication |

Appendix A - Associated Rules

604. Setbacks and Siting Requirements

a. Well Location Requirements.

- (1) At the time the Well is drilled, a Well will be located not less than 200 feet from buildings, public roads, above ground utility lines, or railroads.
- (2) At the time a Form 2A, Oil and Gas Location Assessment is filed, a Well will be located not less than 150 feet from a surface property line. The Commission may grant an exception if it is not feasible for the Operator to meet this minimum distance requirement and a waiver is obtained from the offset Surface Owner(s). The Operator will submit an exception location request letter stating the reasons for the exception and a signed waiver(s) from the offset Surface Owner(s) with the Form 2A for the proposed Oil and Gas Location where the Well will be drilled. Such signed waiver will be filed in the office of the county clerk and recorder of the county where the Well will be located.
- (3) No Working Pad Surface will be located 2,000 feet or less from a School Facility or Child Care Center.
 - A. If the Operator and School Governing Body disagree as to whether a proposed Working Pad Surface is 2,000 feet or less from a School Facility or Child Care Center, the Commission will hear the matter in the course of considering the proposed Oil and Gas Development Plan. At the hearing, the Operator will demonstrate that the Working Pad Surface is more than 2,000 feet from any School Facility or Child Care Center.

B. Any hearing required under Rule 604.b.(3).A will be held at a location reasonably proximate to the lands affected by the proposed Oil and Gas Development Plan.

(4) No Working Pad Surface will be located less than 500 feet from 1 or more Residential Building Units not subject to a Surface Use Agreement or waiver, that includes informed consent from all Building Unit owner(s) and tenant(s) explicitly agreeing to the proposed Oil and Gas Location siting.

b. Siting Requirements for Proposed Oil and Gas Locations Near Residential Building Units and High Occupancy Building Units. No Working Pad Surface will be located more than 500 feet and less than 2,000 feet from 1 or more Residential Building Units or High Occupancy Building Units unless one or more of the following conditions are satisfied:

- (1) The Residential Building Unit owners and tenants and High Occupancy Building Unit owners and tenants within 2,000 feet of the Working Pad Surface explicitly agree with informed consent to the proposed Oil and Gas Location;
- (2) The location is within an approved Comprehensive Area Plan that includes preliminary siting approval pursuant to Rule 314.b.(4) or an approved Comprehensive Drilling Plan;;
- (3) Any Wells, Tanks, separation equipment, or compressors proposed on the Oil and Gas Location will be located more than 2,000 feet from all Residential Building Units or High Occupancy Building Units; or
- (4) The Commission finds, after a hearing pursuant to Rule 510, that the proposed Oil and Gas Location and conditions of approval will provide substantially equivalent protections for public health, safety, welfare, the environment, and wildlife resources.

- A. The Commission will base its finding of substantial equivalence on information including but not limited to:
- i. The Director's Recommendation on the Oil and Gas Location pursuant to Rule 306.b;
 - ii. The extent to which the Oil and Gas Location design and any planned Enhanced Systems and Practices, Best Management Practices, preferred control technologies, and conditions of approval avoid, minimize, and mitigate adverse impacts, considering:
 - aa. Geology, technology, and topography;
 - bb. The location of receptors and proximity to those receptors; and
 - cc. The anticipated size, duration, and intensity of all phases of the proposed Oil and Gas Operations at the proposed Oil and Gas Location.
 - i. The Relevant Local Government's consideration or disposition of a land use permit for the location, including any siting decisions and conditions of approval identified as appropriate by the Relevant Local Government;
 - ii. The Operator's alternative location analysis conducted pursuant to Rule 304.b.(2), or an alternative location analysis performed for the Relevant Local Government that the Director has accepted as substantially equivalent pursuant to Rule 304.e;
 - iii. Related Oil and Gas Location siting and infrastructure proposed as a component of the same Oil and Gas Development Plan as the proposed Oil and Gas Location;

- iv. How Oil and Gas Facilities associated with the proposed Oil and Gas Location are designed to avoid, minimize, and mitigate impacts on Residential Building Units and High Occupancy Building Units; or
 - vii. The Operator's actual and planned engagement with nearby residents and businesses to consult with them about the planned Oil and Gas Operations.
- B. For proposed Oil and Gas Locations within 2,000 feet of a Residential Building Unit or High Occupancy Building Unit within a Disproportionately Impacted Community for which the Operator seeks approval pursuant to Rule 604.b.(4), the Commission will base its finding of substantial equivalence on the criteria set forth in Rules 604.b.(4).A.i-vii and 604.b.(4).B.i.aa-dd, and the information provided pursuant to Rule 604.b.(4).B.ii.
- i. The Commission will not make a substantial equivalence finding under 604.b.(4).B unless the Operator demonstrates that:
 - aa. The Operator has undertaken all reasonable efforts to obtain informed consent and provides a summary as to why informed consent could not be obtained from each;
 - bb. The alternative location analysis required under Rule 304.b.(2) demonstrates the selected location avoids, minimizes, and mitigates any adverse Cumulative Impacts to Disproportionately Impacted Communities;
 - cc. The information and analysis required under Rule 315.b.(2).D.iii demonstrates that the operator has analyzed the Colorado EnviroScreen score, EnviroScreen Group Component scores, and EnviroScreen Individual Components

scores for the proposed Oil and Gas Location and has employed Best Management Practices and/or Enhanced Systems and Practices sufficient to avoid, minimize, and mitigate adverse impacts to any identified community vulnerabilities; and

dd. The Oil and Gas Location design and any planned Enhanced Systems and Practices, Best Management Practices, preferred control technologies, and conditions of approval avoid, minimize, and mitigate adverse impacts.

ii. The Operator will provide:

aa. Information showing that informed consent could not be obtained because all owners or tenants of Residential Building Units and High Occupancy Building Units within 2,000 feet of the proposed Oil and Gas Location refused to grant such consent or failed to respond to communications from the Operator and a summary of the Operator's use of all reasonable efforts to obtain informed consent which includes a narrative as to why informed consent could not be obtained from each;

bb. Documentation of the Operator's outreach to all owners and tenants of Residential Building Units and High Occupancy Building Units within 2,000 feet of the Oil and Gas Location, including:

1. Summaries of any neighborhood meetings;
2. Summaries of all communications between the Operator and the owners or tenants, providing the

- date and nature of the communication (e.g., electronic mail, phone call, in-person meeting), all participants to the communication, and a detailed description of the substance of the communication;
- 3. Verification that translation services were provided if necessary; and
- 4. Verification that all written communications were written in easily understandable plain language and translated when necessary;
- cc. A written summary of any owner's or tenant's comments on the proposed Oil and Gas Location or operations, including support, concerns, or questions, and any response the Operator provided to the owner or tenant;
- dd. The number of informed consents sought and number of informed consents obtained from Residential Building Unit or High Occupancy Building Unit owners or tenants within 2,000 feet of the Working Pad Surface of the proposed Oil and Gas Location, including how many informed consents were obtained from residents of Disproportionately Impacted Community;
- ee. The information required pursuant to Rule 315.b.(2).D.iii; and
- ff. A description of any voluntarily executed community benefit agreement governing the Operator and the owners and tenants of the Residential and High Occupancy Building Units within 2,000 feet of the Working Pad Surface of the proposed

Oil and Gas Location and within the Disproportionately Impacted Community. The Community Liaison may provide assistance in the development of the community benefit agreement, but only as to identification of the relevant Disproportionately Impacted Community and clarity to community members around the Commission's rules and policies, including opportunities to participate in the Commission's permitting process, and not as to the terms of the community benefit agreement.

iii. As part of the notice of hearing required pursuant to Rules 504.a.(1).A and 303.e.(1).B, the Operator will provide any non-consenting owner or tenant of a Residential Building Unit or High Occupancy Building Unit within 2,000 feet of the Working Pad Surface:

- aa. Contact information for the Community Liaison and information about how the Community Liaison may assist the owner or tenant in participating in the permitting process;
- bb. Information regarding how the owner or tenant may submit oral or written public comments at the hearing; and
- cc. Information regarding how to access the Oil and Gas Development Plan application and related materials on the Commission's website.