

**APPENDIX A
DEFINITIONS
100 SERIES**

CASH BOND means United States currency provided to the Commission as Financial Assurance, including certificates of deposit and money market accounts. A Cash Bond may be expended by the Commission if an Operator fails to perform its Plugging and Abandonment, Reclamation, or Remediation obligations. The Operator providing a Cash Bond has no contract or property interest in the Cash Bond other than a contingent reversionary interest in the surplus, if any, which arises after the Director has determined that the Operator has complied with all Plugging and Abandonment, Reclamation, and Remediation obligations pursuant to Rule 706.a, or after a Buying Operator has filed a satisfactory replacement Financial Assurance pursuant to Rule 218.e.(4). A Cash Bond is not intended as cash collateral as defined in 11 U.S.C. § 363(a).

FINANCIAL ASSURANCE shall mean a Surety Bond, Cash Bond collateral, certificate of deposit, Letter of Credit, sinking fund, escrow account, lien on property, security interest, guarantee, or other instrument or method in favor of and acceptable accepted by the Commission to ensure an Operator is able to perform its obligations under the Act and the Commission's Rules pursuant to Rule 701. With regard to third party liability concerns related to public health, safety and welfare, the term encompasses general liability insurance.

INACTIVE WELL shall mean:

- a. ~~Any shut-in Well that produces less than 1 Barrel of oil equivalent ("BOE") per day, calculated as a trailing 12-month average of the Operator's reported BOE for the Well; from which no production has been sold for a period of twelve (12) consecutive months; any well which has been temporarily abandoned for a period of six (6) consecutive months; or~~
- b. ~~Any Class II UIC injection Well which has not been utilized for a period of twelve (12) consecutive months.~~

LETTER OF CREDIT means an irrevocable letter guaranteeing the creditworthiness of an Operator, with the guarantee made by a third-party entity and the Commission as a beneficiary, which provides Financial Assurance that an Operator will comply with all its obligations under the Act and the Commission's Rules. A Letter of Credit may be called and expended by the Commission if an Operator fails to perform its Plugging and Abandonment, Reclamation, and Remediation obligations.

LOW PRODUCING WELL means any Well that produces less than 5 Barrels of oil equivalent ("BOE") per day, calculated as a trailing 12-month average of the Operator's reported BOE for the Well.

OPERATOR shall mean any person who exercises the right to control the conduct of Oil and Gas Operations.

- a. **SELLING OPERATOR** means the Operator of record for any Transferable Items, as defined in Rule 218.a, at the time a Form 9, Transfer of Operatorship – Intent is filed.
- b. **BUYING OPERATOR** means the successor-in-interest entity to which Transferable Items, as defined in Rule 218.a, will be transferred through the Form 9 process.
- c. **PRIOR OPERATOR** means an Operator other than the Selling Operator that was a previous Operator of record for any Transferable Items, as defined in Rule 218.a.

ORPHAN WELL shall mean a well for which no owner or operator can be found, or where such owner or operator is unwilling or unable to plug and abandon such well.

ORPHANED SITE ~~shall~~ means a Well, Oil and Gas Location, or Oil and Gas Facility site, where a significant adverse environmental impact may be or has been caused by oil and gas operations for which no Operator with unclaimed Financial Assurance or an active Form 1, Registration for Oil and Gas Operations exists, and for which the Commission has not identified a Responsible Party can be found, or where such responsible party is unwilling or unable to mitigate such impact.

OUT OF SERVICE WELL means a Well that is no longer producing and that an Operator intends to Plug and Abandon, by including it on the Operator's Form 6A, Plugging List.

PLUGGING AND ABANDONMENT means the cementing permanent plugging of a ~~well~~Well, the removal of its associated Production Facilities, and the abandonment of its Flowline(s), ~~and the remediation and reclamation of the wellsite.~~

RECLAMATION ~~shall~~ means the process of returning or restoring the surface of disturbed land as nearly as practicable to its condition prior to the commencement of Oil and Gas Operations ~~or to landowner specifications with an approved variance under Rule 502.b.~~

REMEDIATION means the process of reducing the concentration of a contaminant or contaminants in water or soil to the extent necessary to ensure compliance with the concentration levels in Table 915-1 and other applicable Groundwater standards and classifications.

SHUT-IN WELL ~~shall~~ means a Well which is not currently producing or injecting but is capable of production or injection by opening valves, activating existing equipment, or supplying a power source.

SPUD means the initiation of drilling the surface hole of a Well.

SPUD DATE means the date when the Operator starts drilling the surface hole of a Well.

SURETY BOND means a perpetual financial instrument between the surety or issuer and the Commission as obligee, providing Financial Assurance that an Operator will comply with all its obligations under the Act and the Commission's Rules. A Surety Bond may be called and expended by the Commission if an Operator fails to perform its Plugging and Abandonment, Reclamation, and Remediation obligations. The Operator providing a Surety Bond has no contract or property interest in the Surety Bond other than a contingent reversionary interest in the surplus, if any, which arises after the Director has determined that the Operator has complied with all Plugging and Abandonment, Reclamation, and Remediation obligations pursuant to Rule 706.a, or after a Buying Operator has filed a satisfactory replacement Financial Assurance pursuant to Rule 218.e.(4).

SUSPENDED OPERATIONS WELL ~~shall~~ means a Well ~~in~~ which has been Spud but drilling operations ~~have been~~are suspended prior to reaching total depth, and at least one casing string ~~(the surface casing)~~ has been set and cemented in the wellbore. ~~This definition does not include w~~Wells in which only conductor pipe has been set, ~~but~~and the surface hole has not been Sspud are not Suspended Operations Wells.

TEMPORARILY ABANDONED WELL ~~shall~~ means:

a. A ~~W~~Well that is neither currently producing nor permanently plugged, but has all downhole completed intervals isolated with a plug set above the highest perforation such that the Well cannot produce without removing a plug; or

b. A ~~W~~Well which is incapable of production or injection without the addition of one or more pieces of wellhead or other equipment, including valves, tubing, rods, pumps, heater-treaters, separators, dehydrators, compressors, piping, or Ttanks.

USED OR USEFUL means a Well, or an Oil and Gas Location or Oil and Gas Facility with associated Wells, that is currently being used or remains economically viable, which may be indicated by, among other things:

a. Production trends for the Well;

b. Plugging and Abandonment, Remediation, and Reclamation costs in relation to the Well's gross revenue generation;

c. Failure to use or develop a facility; or

d. Other relevant evidence.

WAITING ON COMPLETION WELL ~~shall~~ means a Well which has been drilled to total depth, cased, and cemented but the objective hydrocarbon formation has not yet been completed or Stimulated using an open hole, a liner, or a perforated casing completion.

WELL ~~when used alone in these Rules and Regulations, shall~~ means an oil or gas ~~well~~ Well, a hole drilled for the purpose of producing oil or gas (including non-hydrocarbon gases such as carbon dioxide and helium), a Class II UIC Well ~~a well into which fluids are injected~~, a Stratigraphic Well, a Gas Storage Well, or a Well used for the purpose of monitoring or observing a reservoir.

**GENERAL PROVISIONS
200 SERIES**

205. OPERATOR REGISTRATION

a. Form 1, Registration for Oil and Gas Operations. Prior to the commencement of their operations, all producers, Operators, transporters, ~~gatherersrefiners, gasoline or other extraction plant Operators~~, and initial purchasers who are conducting operations subject to this Act in the State of Colorado, will, for purposes of the Act, file a Form 1, Registration for Oil and Gas Operations with the Director.

(1) Any producer, Operator, transporter, ~~gathererrefiner, gasoline or other extraction plant operator~~, and initial purchaser conducting operations subject to the Act who has not previously filed a Form 1, will do so immediately.

(2) Any entity providing Financial Assurance for oil and gas Operators in Colorado will file a Form 1 with the Director.

~~(4)~~**(3)** All changes of address of any party required to file a Form 1 will be reported immediately via a new Form 1.

b. Form 1A, Designation of Agent.

(1) All Operators will file a Form 1A, Designation of Agent to designate:

- A. A Principal Agent, who is an employee of the Operator; and
- B. One or more agents that the Operator approves to serve as its representative(s).

(2) Form 1A designations will remain in effect until terminated in writing via a new Form 1A.

(3) All changes to the Form 1A will be ~~immediately~~ reported immediately via a new Form 1A.

c. Form 1B, Annual Well Registration.

(1) An Operator that has filed a Form 1 and is operating one or more Wells will file a Form 1B, Annual Well Registration by no later than April 1 of each year.

(2) With its Form 1B, the Operator will remit an Annual Well Registration Fee of:

- A. \$100.00 per Well in 2022; and
- B. \$200.00 per Well in 2023 and later years.

(3) Informational Requirements for Form 1B.

A. On the Form 1B, the Operator will list all Wells that it operated as of December 31 of the prior calendar year, and the status of each Well on that date.

B. The Operator will pay the fee for every Well it operates that was Spud, drilled, producing, Temporarily Abandoned, or capable of production as of December 31 of the prior calendar year, including Inactive Wells, Shut-In Wells, Suspended Operations Wells, and Waiting on Completion Wells. After a Well is Spud, the Operator will pay an annual fee for the Well until it is properly Plugged and Abandoned, subject to an approved Form 6, Well Abandonment Report – Subsequent Report of Abandonment.

C. The Operator need not pay a fee for Wells subject to an approved Form 2, Application for Permit to Drill that have not yet been Spud.

(3)(4) The Director will expend the annual registration fees only to address Orphaned Sites.

211. PLUGGING AND ABANDONMENT OF WELLS AND CLOSURE OF OIL AND GAS FACILITIES AND LOCATIONS

- a. An Operator of a Well will Plug and Abandon the Well, Remediate any contamination pursuant to the Commission's 900 Series Rules, and Reclaim the Well Site pursuant to the Commission's 1000 Series Rules if the Commission, following a hearing pursuant to Rule 503.g.(12), determines that Plugging and Abandoning is reasonable and necessary to protect or minimize adverse impacts to public health, safety, welfare, the environment, or wildlife resources, or when the that the Well is no longer Used or Useful.
- b. An Operator of an Oil and Gas Location will permanently close an Oil and Gas Location or Oil and Gas Facility, properly Plug and Abandon all Wells at the Oil and Gas Location pursuant to Rules 434 & 435, Remediate any contamination pursuant to the Commission's 900 Series Rules, and Reclaim the Oil and Gas Location pursuant to the Commission's 1000 Series Rules, if the Commission, following a hearing pursuant to Rule 503.g.(12), determines that such closure is necessary to protect and minimize adverse impacts to public health, safety, welfare, the environment, or wildlife resources, or when the Oil and Gas Location or Oil and Gas Facility is no longer Used or Useful.

217. FORM 8, OIL AND GAS CONSERVATION LEVY

- a. On or before March 1, June 1, September 1, and December 1 of each year, every producer or purchaser, whichever disburses funds directly to each and every person owning a working interest, a royalty interest, an overriding royalty interest, a production payment, and other similar interests from the sale of oil or natural gas subject to the charge imposed by § 34-60-122(1)(a), C.R.S., will file a Form 8, Oil and Gas Conservation Levy with the Director and remit the levy payment. The Form 8 will show, by Operator, the volume of oil, gas, or condensate produced or purchased during the preceding calendar quarter, including the total consideration due or received at the point of delivery. No Form 8 will be required when the charge imposed is zero mill (\$0.0000) per dollar value. The levy will be an amount fixed by order of the Commission.
- b. The levy amount may, from time to time, be reduced or increased to meet the expenses chargeable against the Oil and Gas Conservation and Environmental Response Fund. The present charge imposed, as of October 1, 2020, is \$0.0015 per dollar value.

218. FORM 9, TRANSFER OF OPERATORSHIP

a. Definitions.

(1) For the purposes of this Rule 218, "Transferable Items" include but are not limited to:

- A. Approved, unexpired Form 2, Application for Permit to Drill; Form 2A; Form 15, Earthen Pit Report/Permit; and Form 28, Centralized E&P Waste Management Facility Permit (collectively "Permits");
- B. Wells;
- C. Oil and Gas Locations;

- D. Oil and Gas Facilities;
- E. Off-Location Flowlines;
- F. Open Remediation projects;
- G. Unresolved Spills and Releases;
- H. Unresolved Field Inspection Reports with outstanding corrective actions;
- I. Unresolved warning letters;
- J. Unresolved Notices of Alleged Violation; and
- K. Any item listed in Rule 218.a.(1).A-(J) that is related in the Commission's records to another Transferable Item proposed for transfer.

~~(2) For purposes of this Rule 218, the term "Selling Operator" means the Operator of record for any Transferable Items at the time a Form 9 – Intent is filed.~~

~~(3) For purposes of this Rule 218, the term "Buying Operator" means the successor-in-interest entity to which Transferable Items will be transferred through the Form 9 process.~~

~~(4) For purposes of Rule 218, the term "Prior Operator" means an Operator other than the Selling Operator that was a previous Operator of record for any Transferable Items.~~

b. Form 9, Transfer of Operatorship – Intent. A Selling Operator will notify the Commission about the transfer of any Transferable Item associated with its Oil and Gas Operations to a Buying Operator by filing a Form 9, Transfer of Operatorship – Intent, with the Commission at least 30 days, or as soon as practicable, before the anticipated transfer date. The Form 9 – Intent will include the Selling Operator's understanding of the following information at the time the Selling Operator submits the Form 9 – Intent to the Commission, which may change prior to the closing date of the transaction:

(1) The name of the Buying Operator;

(2) The anticipated date for the transfer of all Transferable Items;

(3) The complete anticipated list of Transferable Items that are proposed for transfer.

A. The list will identify Inactive Wells and Low Producing Wells proposed for transfer.

B. For each Inactive Well proposed for transfer, the Selling Operator will provide the following information about the Oil and Gas Location where the Inactive Well is located:

i. Area of initial total disturbance for the Oil and Gas Location;

ii. Number of Wells at the Oil and Gas Location, including how many are proposed for transfer and how many are Inactive Wells;

iii. Whether the Oil and Gas Location has cut-and-fill slopes, and, if yes, the percentage of both the cut slope and the fill slope;

iv. Whether the Oil and Gas Location has sandy soils;

v. Whether any salt kills have occurred at the Oil and Gas Location;

vi. Whether the Oil and Gas Location is within High Priority Habitat; and

i.vii. Whether topsoil has been salvaged at the Oil and Gas Location.

~~(3)~~(4) The complete list of any Transferable Items that are related in the Commission's records to a Transferable Item listed pursuant to Rule 218.b.(3) but are not proposed for transfer;

(5) The estimated amount of Financial Assurance required by the Commission's Rules that the Buying Operator will submit to the Commission prior to the anticipated date of transfer identified in Rule 218.b.(2), including:

A. \$78,000.00 for each Inactive Well subject to the transfer, adjusted for inflation pursuant to Rule 707.a.(1).A, unless the Director determines that a greater amount is necessary based on the factors listed in Rule 218.b.(3).B. If a Buying Operator disagrees with the amount of financial assurance it must provide, the Buying Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11);

B. The amount of Financial Assurance required by Rules 702, 703, and 704 for all Transferable Items other than Inactive Wells; and

A.C. The type(s) of Financial Assurance the Buying Operator intends to provide pursuant to Rule 701;

~~(4)~~(6) **Attached Attestations.** An attestation signed by the Selling Operator and the Buying Operator attesting to all contents of the Form 9 – Intent; ~~and~~

(7) If the proposed transfer is subject to a non-disclosure or confidentiality agreement between the Selling Operator and the Buying Operator, the Selling Operator will indicate on the Form 9 – Intent that the proposed transfer is considered confidential, and the Director will keep the Form 9 – Intent and any other associated information confidential pursuant to § 24-72-204(3)(a)(IV), C.R.S., until the Form 9, Transfer of Operatorship – Subsequent is filed; ~~and-~~

~~(5)~~(8) If more than 30% of the Wells subject to the proposed transfer are Low Producing Wells, the Selling Operator and Buying Operator will file a joint application for a Financial Assurance hearing before the Commission pursuant to Rule 503.g.(11) prior to or simultaneously with the Selling Operator submitting the Form 9 – Intent. As part of the application, the Buying and Selling Operators may waive notice requirements to facilitate an expedited hearing.

c. The Selling Operator will remit with the Form 9 – Intent the filing fee provided in Appendix III.

d. Form 9, Transfer of Operatorship – Subsequent.

(1) When a transaction subject to a Form 9 – Intent becomes final, the Buying Operator will submit a Form 9 – Subsequent within 7 days of closing. The Form 9 – Subsequent will include:

A. The effective date of transfer;

B. The complete list of Transferable Items that:

i. Were transferred to the Buying Operator;

- ii. Are related in the Commission's records to a Transferable Item listed pursuant to Rule 218.d.(1).B.i but were not transferred, and:
 - aa. Whether the Selling Operator retained responsibility for compliance with the Commission's Rules for any Transferable Item listed pursuant to Rule 218.d.(1).B.ii; or
 - bb. Whether a Prior Operator retained responsibility for compliance with the Commission's Rules for any Transferable Item listed pursuant to Rule 218.d.(1).B.ii; and
- iii. Were listed on the Form 9 – Intent pursuant to Rules 218.b.(3) & (4) but were not transferred to the Buying Operator upon closing, and:
 - aa. Whether the Selling Operator retained responsibility for compliance with the Commission's Rules for any Transferable Item listed pursuant to Rule 218.d.(1).B.iii; or
 - bb. Whether a Prior Operator retained responsibility for compliance with the Commission's Rules for any Transferable Item listed pursuant to Rule 218.d.(1).B.iii.

C. Attached Attestations.

- i. An attestation signed by the Selling Operator and the Buying Operator attesting to all contents of the Form 9 – Subsequent;
- ii. If applicable, an attestation signed by the Selling Operator attesting that the Selling Operator retains responsibility for compliance with the Commission's Rules for any Transferable Item listed in Rules 218.d.(1).B.ii.aa or 218.d.(1).B.iii.aa; and
- iii. An attestation signed by the Buying Operator that the Buying Operator notified the Relevant Local Government in which any Transferable Item is located of the completed transaction in writing.

D. Subsequent Liability.

- i. For Transferable Items listed in Rule 218.d.(1).B.i an acknowledgment that upon the effective date of transfer, that the Buying Operator assumes all responsibility for compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders for the Transferable Items;
- ii. For Transferable Items listed in Rules 218.d.(1).B.ii or iii, an acknowledgment that the Buying Operator may be or may become responsible for compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders if the Buying Operator takes any action, or fails to take any action, that would cause such Transferable Item to be out of compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders; and
- iii. For Transferable Items not listed in Rule 218.d.(1).B.i–iii but related in the Commission's records, an acknowledgment that the Commission will presume that the Transferable Item was transferred, and that the Buying Operator is responsible for compliance with the Act, the Commission's Rules, and all terms and conditions of existing Permits and Commission orders for the Transferable Items.

- (2) If an anticipated transaction that is the subject of a Form 9 – Intent does not occur, the Selling Operator will notify the Director in writing. The Director will withdraw the Form 9 – Intent.
- e. The Director will review the Form 9 – Intent and Form 9 – Subsequent upon receipt. The Director will approve the Form 9 – Intent and Form 9 – Subsequent within 45 business days of when all of the following have occurred:
- (1) The Director has determined that all Permits described in Rule 218.d.(1).B.i subject to the proposed transfer comply with the Commission’s current Rules in effect at the time of the proposed transfer;
- (2) If a Permit described in Rule 218.d.(1).B.i. is not in compliance with the Act, the Commission’s Rules, and all terms and conditions of existing Permits and Commission orders on the date of transfer, the Director has determined that the Selling Operator, Buying Operator, or Prior Operator has submitted a satisfactory plan to bring such Permit into compliance;
- (3) The Director has determined that the Form 9 – Intent and Form 9 – Subsequent are complete and comply with this Rule 218; and
- (4) The Buying Operator has submitted the Financial Assurance required by the Commission’s Rules. If a Commission hearing is required because more than 30% of the transferred Wells are Low Producing Wells, or the Buying Operator requests a Financial Assurance hearing pursuant to Rule 218.b.(5).A, then Director will not approve the Form 9 – Intent and Form 9 – Subsequent until the Commission has held the Financial Assurance hearing pursuant to Rule 510.
- f. The Director may deny the Form 9 – Intent and Form 9 – Subsequent and the Selling Operator will remain responsible for compliance with the Commission’s Rules for the proposed Transferable Items:
- (1) If the Form 9 – Intent or Form 9 – Subsequent fail to satisfy Rules 218.b or 218.d;
- (2) If the Selling Operator did not remit the filing fee required by Rule 218.c;
- (3) If the Buying Operator fails to submit the amount or type of Financial Assurance required by the Commission’s Rules or required by a Commission order approved during a Financial Assurance hearing; or
- (4) If the Buying Operator does not submit a Form 9 – Subsequent within 120 days following the anticipated date for transfer identified in Rule 218.b.(1).
- g. If a Buying Operator operates a Well or Wells for 60 days or more without obtaining the Director’s approval of a Form 9 – Intent and Form 9 – Subsequent, the Director may require all such Wells to be shut-in, consistent with the Well shut-in safety requirements of Rule 434. All such Wells will remain shut-in until the Director approves a Form 9 – Intent and Form 9 – ~~Subsequent are approved by the Director~~. An Operator that objects to a shut-in order may request an expedited hearing before the Commission pursuant to the expedited appeal procedures described in Rule 209.b.
- h. The Director will not approve a Form 10, Certificate of Clearance submitted by the Buying Operator for a transferred Well unless there is an approved Form 9 – Intent and 9 – Subsequent.

- i. A Form 9 is not required for the change of Operator of gas gathering systems, gas processing plants, and underground gas storage facilities, which are governed by Rule 220.c.

223. CONFIDENTIAL INFORMATION

- b. Confidential information may include:

~~(10)~~ Personal medical information submitted on a Form 22, Accident Report; ~~and~~

~~(10)(11)~~ Non-public and confidential financial information submitted as part of a Financial Assurance Plan pursuant to Rule 702; and

~~(11)~~ (12) Other information that the Operator designates as confidential if the Director concurs that the information meets the confidentiality provisions of the Colorado Open Records Act.

DRAFT

**PERMITTING PROCESS
300 SERIES**

304. FORM 2A, OIL AND GAS LOCATION ASSESSMENT APPLICATION

- b. **Information Requirements.** All Form 2As will include the following information, unless otherwise provided in a Commission [Order](#) approving a CAP pursuant to Rule 314.

(2) **Alternative Location Analysis.**

- B. **Alternative Location Analysis Criteria.** An Operator will perform an alternative location analysis if:

- ix. The Operator is using or intends to use a Surface Owner protection bond pursuant to Rule 704~~3~~ to access the proposed Oil and Gas Location; or

306. DIRECTOR'S RECOMMENDATION ON THE OIL AND GAS DEVELOPMENT PLAN

- a. **When the Director May Issue a Recommendation.** The Director will not make a Recommendation to the Commission about whether to approve or deny any Oil and Gas Development Plan until:

- (5) The Director determines that the Operator has provided adequate Financial Assurance as required by the Commission's 700 Series Rules for both the proposed Oil and Gas Development Plan and all existing facilities owned by the Operator, and that the Operator has submitted a Form 1B, Annual Well Registration for the current year and paid the appropriate fee pursuant to Rule 205.c.

**OPERATIONS AND REPORTING
400 SERIES**

413. FORM 7, OPERATOR'S MONTHLY REPORT OF OPERATIONS

- a.** Operators will report all existing oil and gas Wells that are not Plugged and Abandoned on the Form 7, Operator's Monthly Report of Operations within 45 days after the end of each month.
- (1)** ~~Operators will report a~~ Well ~~will be reported~~ every month from the month that it is ~~spud~~ Spud until it has been Plugged and Abandoned and reported for one month as abandoned. Operators will identify and list all Shut-In Wells or Temporarily Abandoned Wells on their Form 7 reports.
- (4)(2)** ~~Operators will report e~~Each formation that is completed in a Well ~~will be reported~~ every month from the time that it is completed until it has been abandoned and reported for one month as abandoned. The reported volumes will include all Fluids produced during Flowback, initial testing, completion, and production of the Well.
- b.** Operators will report the volume of produced Fluids and any gas or Fluids used during enhanced recovery unit operations injected into a Class II UIC Well on a Form 7 within 45 days after the end of each month. The reported volumes will include all Fluids produced during Flowback, initial testing, Completion, and production of the Well. Produced Fluids include, but are not limited to, produced water and Fluids recovered during drilling, casing cementing, pressure testing, Completion, workover, and formation Stimulation of all Wells including production, exploration, injection, service and monitoring Wells.
- c.** Operators will report the volume of any non-produced Class II Fluids not listed in Rule 413.b injected into a Class II UIC Well on a Form 14, Monthly Report of Non-Produced Water Injected pursuant to Rule 808.b.

434. ABANDONMENT

b. Temporary Abandonment.

- (1)** If an Operator Temporarily Abandons a Well, the Operator will file a Form 4 within 30 days reporting and describing such activity.
- (2)** A Well may be Temporarily Abandoned for a period not to exceed 6 months, if:
- A.** It after has passeding a successful mechanical integrity test pursuant to Rule 417.c within the prior six months, and the Director has approved the applicable Form 21; upon approval of the Director, for a period not to exceed 6 months provided
- B.** TheThe Operator cases or leaves the hole is cased or left in such a manner so as to prevent migration of oil, gas, water, or other substance from the formation or horizon in which it originally occurred; -
- C.** The Operator All Temporarily Abandoned Wells will be closes the Well to the atmosphere with a swedge and valve or packer, or other approved method; -
- D.** The Well sign will remains in place; and
- E.** The Operator properly reports the Well as Temporarily Abandoned on the Form 7.
- (3)** A Well may be Temporarily Abandoned for a period that exceeds 6 months if:

- A. The Operator complies with all requirements of Rule 434.b.(2);
- B. If an Operator requests temporary abandonment status in excess of 6 months, the Operator submits a Form 4 will state the reason for requesting such the extension of time, stating the reason for the request, and state explaining plans for future operation;
- C. The Operator submits a Form 4, or other form approved by the Director, will be submitted on an annual basis reporting the continued Temporarily Abandoned status of the Well and stating the method the used to ensure that the Well is closed to the atmosphere, and the Operator's plans for future operation of the Well;
- A.D. The Operator performs all, sSubsequent mechanical integrity tests will be required at the frequency specified in Rule 417.c.(2).
- (4) The Commission will not release Financial Assurance for the Well until it is permanently Plugged and Abandoned pursuant to Rule 435, manner in which the Well is to be maintained should be reported to the Commission, and bonding requirements, as provided for in the Commission's 700 Series Rules, kept in force until the permanent Plugging and Abandonment of the Well.
- (5) If a person other than the Operator removes equipment from a Well so as to render it Temporarily Abandoned, the person will file a Form 1 to register as an Operator and file a Form 4 and receive the Director's approval prior to conducting the activity. The Director may require reasonable and necessary conditions of approval, or that the person provide Financial Assurance pursuant to the Commission's 700 Series Rules.
- c. Plugging Inactive Wells.**
- (1) Within 6 months of a Well becoming Inactive, the Operator will Plug and Abandon the Well, unless the Operator:
- A. Brings the Well back to production so that it is no longer an Inactive Well; An Operator will abandon any Well that has ceased production or injection and is incapable of production or injection and any hole determined to be dry within 6 months
- B. Files a Form 3A, Single Well Financial Assurance for the Director's review and approval pursuant to Rule 434.c.(2); or
- C. Files a Form 6A, Plugging List, requesting the Director's approval to designate the Well as Out of Service pursuant to Rule 434.c.(3).
- (2) Form 3A, Single Well Financial Assurance.
- A. Operators will provide the following information to the Director on a Form 3A, Single Well Financial Assurance:
- i. The reason why the Well for which Financial Assurance is provided is Inactive;
- ii. The Operator's average per-well production;
- iii. The Operator's ratio of active Wells to Inactive Wells; and
- iv. The number of Wells the Operator has Plugged and Abandoned during the prior calendar year.

B. The Director will approve a single Well Financial Assurance amount of no less than \$30,000.00 based on the information provided in Rule 434.c.(2).A. The Director may require an Operator to provide more than \$30,000.00 per Well based on the information provided in Rule 434.c.(2).A. If the Operator disagrees with the Director's determination that a greater amount is necessary, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).

C. **Three Year Review.** If an Operator has not Plugged and Abandoned a Well subject to single Well Financial Assurance within three years of the date the Director approves the initial Form 3A, the Operator will submit an updated Form 3A, providing the same information listed in Rule 434.c.(2).A and the additional information listed in Rule 434.c.(2).C.ii.

i. The Director will approve a new single Well Financial Assurance amount of no less than \$78,000.00, adjusted for inflation pursuant to Rule 707.a.(1).A.

ii. The Director may require additional Financial Assurance for the Well, based on the following information for the Oil and Gas Location where the Well is located:

aa. Known Remediation issues;

bb. Area of initial total disturbance for the Oil and Gas Location;

cc. Number of Wells at the Oil and Gas Location;

dd. Whether the Oil and Gas Location has cut-and-fill slopes, and, if yes, the percentage of both the cut slope and the fill slope;

ee. Whether the Oil and Gas Location has sandy soils;

ff. Whether any salt kills have occurred at the Oil and Gas Location; and

gg. Whether the Oil and Gas Location is in High Priority Habitat;

hh. Whether topsoil has been salvaged at the Oil and Gas Location.

iii. If an Operator disagrees with the Director's determination of the amount of Financial Assurance that it is required to provide, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).

(3) **Form 6A, Plugging List.**

A. An Operator may request that the Director designate a Well as Out of Service by submitting a Form 6A, Plugging List that includes:

i. The API number(s) of the Well(s) the Operator proposes to add to its plugging list;

ii. The anticipated date the Operator intends to Plug each Well; and

iii. Evidence that the Operator is financially capable of meeting the anticipated targets of its plugging list, which may include evidence of the number of Wells the Operator has Plugged and Abandoned during the prior calendar year.

B. **Three-Year Deadline.** The Operator will Plug and Abandon each Out of Service Well within 3 years of the Director approving the Form 6A.

C. Financial Assurance. If an Operator does not Plug and Abandon an Out of Service Well within 3 years of the Director approving the Form 6A, the Operator will immediately provide \$78,000,00.00 in Financial Assurance for the Well, adjusted for inflation pursuant to Rule 707.a.(1).A. The Director may require additional Financial Assurance for the Well, based on the following information for the Oil and Gas Location where the Well is located:

- i. Known Remediation issues;
- ii. Area of initial total disturbance for the Oil and Gas Location;
- iii. Number of Wells at the Oil and Gas Location;
- iv. Whether the Oil and Gas Location has cut-and-fill slopes, and, if yes, the percentage of both the cut slope and the fill slope;
- v. Whether the Oil and Gas Location has sandy soils;
- vi. Whether any salt kills have occurred at the Oil and Gas Location; and
- vii. Whether the Oil and Gas Location is in High Priority Habitat;
- viii. Whether topsoil has been salvaged at the Oil and Gas Location.

D. Commission Hearing. If an Operator disagrees with the amount of Financial Assurance it is required to provide pursuant to Rule 434.c.(3).C, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).

~~(2)(4)~~ Mechanical Integrity Tests, thereafter unless t All Out of Service he Wells will passes an initial successful mechanical integrity test pursuant to Rule 417, and the time is extended by the Director upon application by the Owner. The application will indicate why the Well is temporarily abandoned and future plans for utilization. In the event the Well is covered by a blanket bond, the Director may require an individual plugging bond on the Temporarily Abandoned Well. sSubsequent mechanical integrity tests will be required at the frequency specified in Rule 417.c.(2) Gas Storage Wells are to be considered active at all times unless physically plugged.

~~(3)(5)~~ This Rule 434.c does not apply to Gas Storage Wells, which the Commission considers to be active at all times unless the Gas Storage Well is physically plugged.

436. SEISMIC OPERATIONS, NOTICE, CONSULTATION AND REPORTING

~~g.~~ **Financial Assurance Requirements.** The Operator will file Financial Assurance pursuant to Rule 703.b5 prior to submitting the Form 20. The Financial Assurance will remain in effect until the following conditions have been met:

~~h.~~ The Operator has submitted and the Director has approved the Form 20A for all Seismic Operations covered by the Financial Assurance;

~~i.~~ All shotholes have been properly Plugged and Abandoned, and all surface disturbance has been reclaimed pursuant to Rule 436.h;

~~j.~~ All complaints received from Surface Owners have been investigated, addressed, and resolved by the Director pursuant to Rule 524;

~~k. The Operator has submitted a written request for release of Financial Assurance to the Director;
and~~

~~l.g. The Reclamation required by Rule 436.h has been completed.~~

DRAFT

**RULES OF PRACTICE AND PROCEDURE
500 SERIES**

503. APPLICATIONS FOR A HEARING BEFORE THE COMMISSION

g. Commission Application Types. The following applications may be filed with the Commission for adjudication:

- (1) Oil and Gas Development Plan.** An Oil and Gas Development Plan application will satisfy the requirements set forth in Rule 303. Only an Owner or Operator within the proposed Oil and Gas Development Plan may file an Oil and Gas Development Plan.
- (2) Drilling Units.** Pursuant to Rule 305, applications for the creation of drilling units, additional Wells within existing drilling units, other applications for modifications to existing drilling unit orders, or applications for exception locations not subject to Rule 401.c. Only an Owner or Operator within the proposed or existing unit may file an application pursuant to this Rule 503.g.(2).
- (3) Pooling and Unitization Applications.** A statutory pooling application filed pursuant to § 34-60-116, C.R.S., or a unitization application filed pursuant to § 34-60-118, C.R.S. Unitization applications will satisfy the information requirements set forth in Rule 505. Statutory pooling applications will satisfy the information requirements set forth in Rules 505 & 506.
- (4) Order Finding Violation.** An Order Finding Violation (“OFV”) application will include the NOAV. Only the Director may be the Applicant for an OFV.
- (5) Payment of Proceeds.** A payment of proceeds application will satisfy the information requirements set forth in Rules 429 or 430, and will be submitted on a Form 38, Payment of Proceeds Hearing Request.
- (6) School and Child Care Center Setbacks.** A School and Child Care Center setback application will satisfy the information requirements set forth in Rule 604.a.(3).
- (7) Petition for Review.** A complainant’s Petition for Review will satisfy the requirements of Rule 524.e.
- (8) Comprehensive Area Plan.** A Comprehensive Area Plan will satisfy the requirements of Rule 314. Only an Owner or Operator may file a Comprehensive Area Plan.
- (9) Variances.** An application for a variance will satisfy the requirements of Rule 502.
- (10)** Any person may seek relief or a ruling from the Commission on any other matter not described in Rules 503.g.(1)–(9) & ~~(11)–(12) above~~. Rulemaking petitions are not relief or rulings covered by this Rule 503.g.(10) and may be filed by any person pursuant to Rule 529.b.
- (11) Financial Assurance.** An application for a Financial Assurance hearing will satisfy the requirements of Rules 218.b.(5).A, 218.b.(8), 434.c.(2).B, 434.c.(2).C.iii, 434.c.(3).D, 701.b, 702.b, 704.b, 706.b, 706.c.(1), 707.a.(1).D, 707.a.(2), 707.b.(1), 707.b.(2), or 913.i.(1).A. If the Commission initiates a Financial Assurance hearing on its own motion pursuant to Rule 503.a and 707.b.(2), or the Director initiates a Financial Assurance hearing pursuant to Rules 706.b, 707.a.(2), or 707.b.(1), it will be the responsibility of the Operator subject to the hearing to compile any information required by those Rules and submit it into the docket for the proceeding.

~~(10)~~(12)**Well or Location Closure.** An application to require Plugging and Abandonment of a Well or closure of an Oil and Gas Location or Oil and Gas Facility will satisfy the information requirements of Rule 211. Only the Director or a Relevant Local Government may file an application to Plug and Abandon a Well or close an Oil and Gas Location pursuant to Rule 211.

h. Unless provided for in the Commission's Rules, or the Commission otherwise orders, all matters submitted to the Commission for adjudication will automatically be assigned to an Administrative Law Judge or Hearing Officer. An assignment to an Administrative Law Judge or Hearing Officer will encompass all issues of fact and law concerning the matter unless the Commission specifies otherwise in a written order. Notwithstanding the foregoing, the following will be considered only by the Commission and not a Hearing Officer or Administrative Law Judge:

(1) Approval of Comprehensive Area Plans filed pursuant to Rule 314;

(2) Applications seeking a hearing pursuant to Rules 604.a.(3) or 604.b.(4);

(3) Variance requests to the Commission filed pursuant to Rule 502.a; ~~and~~

(4) Rulemaking proceedings held pursuant to Rule 529;

(5) Financial Assurance hearings pursuant to Rules 218.b.(5).A, 218.b.(8), 434.c.(2).B, 434.c.(2).C.iii, 434.c.(3).D, 701.b, 702.b, 704.b, 706.b, 706.c.(1), 707.a.(1).D, 707.a.(2), 707.b.(1), 707.b.(2), or 913.i.(1).A; and

~~(4)~~(6) Well or Location Closure hearings pursuant to Rule 211.

504. NOTICE FOR HEARING

a. General Notice Provisions.

(1) When any proceeding has been initiated, the Commission will require a copy of the application, together with a notice of such proceeding, to be provided to all persons specified in the relevant sections of Rules 504.b–f at least 60 days in advance of the noticed hearing date. Notice will be provided pursuant to the requirements of § 34-60-108(4), C.R.S., and will be drafted by the Secretary. A signed, electronic copy will be provided to the Applicant in sufficient time for delivery to those who require notice. The application and notice will be provided directly by the Applicant, using the Applicant's return address. The Applicant is responsible for service and publication of required notices, including any related costs.

A. If the application is for an Oil and Gas Development Plan, the Operator will comply with the notice provisions of Rule 303.e prior to a hearing on the Oil and Gas Development Plan.

(2) No later than 30 days before the noticed hearing date, the Applicant will submit to the Secretary:

A. A certificate of service demonstrating that the Applicant served a copy of the application and notice on all persons entitled to notice pursuant to the Commission's Rules. The certificate of service will include a list of all persons who received a copy of the application and notice, including identification of mailed notices returned to the Applicant as undeliverable; and

- B. A notarized affidavit providing assurance that the Applicant published a copy of the notice in a newspaper of general circulation [and](#) in the county where the land affected is situated, and the date of publication for each newspaper used. The Applicant is not required to submit a notarized proof of publication from the newspapers, or copies of the publications, unless a concern with publication is raised. Service of process by publication to unknown addresses will occur through five weeks of publication ending at the Rule 507 petition deadline, at least 30 days prior to the noticed hearing date.
- (3) The Secretary will give notice to any person who has filed a request to be placed on the Commission's general email notification list. Notice by publication or notice provided pursuant to the Commission's general email list does not confer interested party status on any person.
- (4) Notice by publication or notice by electronic mail provided pursuant to this subsection does not confer Affected Person status on any person.
- b. **Notice for Specific Applications.**
- (1) **Applications for Oil and Gas Development Plans.** Oil and Gas Development Plan applications will be served on all persons identified in Rules 303.d.(2) and 303.e.(1).
- (2) **Applications related to Drilling Units.** For purposes of applications for drilling units, additional Wells within existing drilling units, or other applications for modifications of, or exceptions to, existing drilling unit orders but not including applications subject to Rule 504.b.(6), the application and notice will be served on the leasehold interest owners and any unleased mineral Owners within the proposed drilling unit or within the existing drilling unit to be affected by the applications. The persons identified in Rule 303.d.(2) will also receive notice of such an application.
- (3) **Applications for Involuntary Pooling.** For purposes of applications for involuntary pooling orders made pursuant to § 34-60-116, C.R.S., the application and notice will be served on those persons who own any interest in the mineral estate, whether leased or unleased, of the tracts to be pooled, except Owners of an overriding royalty interest.
- (4) **Applications for Unitization.** For purposes of applications for unitization made pursuant to § 34-60-118, C.R.S., the application and notice will be served on those persons who own any interest in the mineral estate underlying the tract or tracts to be unitized and the Owners within one-half mile of the tract or tracts to be unitized.
- (5) **Applications Changing Certain Well Completion Setbacks.** For purposes of applications that change the ordered minimum Well completion setbacks for Drilling and Spacing Unit boundaries, the application and notice will be served on those Owners of Cornering and Contiguous Units or tracts who may be affected by such change, provided that when the Applicant owns any interest covering such tract, the person who owns the mineral estate underlying the tract covered by such lease will also be notified.
- (6) **Applications for Well Completion Exception.** For purposes of applications for exceptions to Rules 401.a & b not granted pursuant to Rule 401.c, the application and notice will be served on the Owners of any Cornering and Contiguous Units or tracts upon which the Well completion location is encroaching, provided that when the Applicant owns any interest covering such tract or unit, the person who owns the mineral estate underlying the tract covered by such lease will also be notified.
- (7) **Applications for Variances.** For purposes of requesting a variance pursuant to Rule 502, the application and notice will be served on the Director and the Relevant Local

Government. Upon review of the application, the Director may request, and the Secretary has discretion to require, that notice be served on any necessary person based on the person's potential legal interest or the potential impact of the variance. A necessary person may include but is not limited to a potentially impacted Governmental Agency, potentially impacted Surface Owner, or other potentially impacted person. For any variance requested as part of an application subject to Rules 504.b.(1)–(6), no additional notice will be required.

(8) All Other Applications. For any application not specified in Rules 504.b.(1)–(7) or (9)–(11), the Secretary has discretion to determine who is entitled to receive the application and notice, based on legal interest and potential impact.

(9) Orders Related to Violations. With respect to the resolution of an NOAV, the application and notice will be provided to a relevant complainant (if any), to the alleged violator or alleged Responsible Party, or Operator, as applicable, and by publication pursuant to § 34-60-108(4), C.R.S.

(9)(10) Financial Assurance Hearings.

A. If an Operator seeks a Financial Assurance hearing pursuant to Rule 218.b.(8), 434.c.(2).B, 434.c.(2).C.iii, 434.c.(3).D, 701.b, 702.b, 707.a.(1).D, or 913.i.(1).A, the Operator will serve the application and notice on the Director. If a Buying Operator seeks a Financial Assurance Hearing pursuant to Rule 218.b.(5).A, the Buying Operator will also serve the application and notice on the Selling Operator.

B. If the Commission initiates a Financial Assurance hearing on its own motion pursuant to Rule 503.a or 707.b.(2), the Secretary will provide notice to the Operator.

C. If the Director initiates a Financial Assurance hearing pursuant to Rule 706.b, 707.a.(2), or 707.b.(1), the Secretary will provide notice to the Operator. For hearings to call Surety Bonds and Letters of Credit, or to foreclose on any liens or other assets pursuant to Rule 706.b.(2).B–C, the Secretary will also provide notice to the third-party provider of the Financial Assurance being called or foreclosed upon.

D. If a Surface Owner initiates a Financial Assurance hearing pursuant to Rule 704.b, the Surface Owner will provide notice to the Operator and the Director.

E. If a third-party provider of Financial Assurance initiates a Financial Assurance hearing pursuant to Rule 706.c.(1), the third-party provider of Financial Assurance will provide notice to the Director.

(11) Well or Location Closure Hearings.

A. If the Director initiates a Well or Location Closure hearing pursuant to Rule 211, the Secretary will provide notice to the Operator.

~~C.B.~~ If the Relevant Local Government initiates a Well or Location Closure hearing pursuant to Rule 211, the Relevant Local Government will provide notice to the Operator and the Director.

c. Notice to the Colorado State Board of Land Commissioners. The application and notice will also be given to the Colorado State Board of Land Commissioners for all applications where the Colorado State Board of Land Commissioners maintains a mineral ownership included in the application lands.

- d. **Notice to Colorado Parks and Wildlife.** The application and notice will also be given to CPW for all applications where CPW maintains a mineral ownership included in the application lands.
- e. **Notice to Tribal Governments.** The application and notice will also be given to the Southern Ute Indian Tribe or the Ute Mountain Ute Tribe for all applications involving minerals within the exterior boundary of either tribe's reservation where both the surface and oil and gas estates are owned in fee by persons or entities other than the Tribe.
- f. **Notice to the Bureau of Land Management.** The application and notice will also be given to the Bureau of Land Management for all applications where the Bureau of Land Management maintains or manages a mineral or surface ownership included in the application lands.

505. EVIDENCE IN SUPPORT OF AN APPLICATION

Applicants seeking relief under Rules 503.g.(1)–(37) & (8)–(9) will submit the documents described in Rules 505.a–e below to the Commission with its application. The Commission, Administrative Law Judge, or Hearing Officer will determine if additional evidence is needed on a case-by-case basis. If the application lacks sufficient information or evidence, the application may be continued at the Commission, Administrative Law Judge, or Hearing Officer's discretion.

- a. Sworn written testimony, of relevant witnesses verifying land, geologic, engineering, public health, safety, welfare, the environment, and wildlife facts, or such other facts and testimony as may be required by the Commission's Rules. Geologic and engineering written testimony are only required for applications made pursuant to Rules 503.g.(1)–(3) & (8), except for not required for a statutory pooling applications filed pursuant to Rule 503.g.(3), or a variance application filed pursuant to Rule 502.a. Such testimony will be accompanied by attachments or exhibits that adequately support and are specific to the relief requested in the application, along with resumes/curricula vitae for each witness.
- b. A statement, signed under oath, from a person having knowledge of the stated facts, attesting to the facts stated in the written testimony and any attachments or exhibits. The sworn statement need not be notarized, but it will contain language indicating that the signatory is affirming that submitted testimony and supporting documents are true and correct to the best of the signatory's knowledge and belief and, if applicable, that they were prepared by the signatory or under the signatory's supervision.
- c. A sworn statement that is a summary of the testimony to support the relief requested in the application, including a request to take administrative notice of repetitive general, technical, or scientific evidence, where appropriate.
- d. 1 set of exhibits which will contain relevant highlights in bullet-point format on each exhibit.
- e. A draft proposed order, if requested by the Administrative Law Judge or Hearing Officer, with findings of fact and conclusions of law related to land, geology, engineering, public health, safety, welfare, the environment and wildlife, and other appropriate subjects to support the relief requested in the application. Geologic and engineering evidence are not required for a Rule 503.g.(3) order. Reference to testimony, exhibits, and previous Commission orders will be included as findings in the draft proposed order.
- f. No sworn testimony is required to support an application under Rule 503.g.(11), but the Commission, Administrative Law Judge, or Hearing Officer may require an Applicant or other party to a Financial Assurance hearing to submit sworn testimony or other evidence as necessary during the course of proceedings.

g. The Director or a Relevant Local Government filing an application to Plug and Abandon a Well or close an Oil and Gas Location pursuant to Rule 503.g.(12) need not submit sworn testimony with its hearing application but will submit all evidence necessary to support the basis for its application pursuant to Rule 211.

DRAFT

**FINANCIAL ASSURANCE
700 SERIES**

701. TYPES OF FINANCIAL ASSURANCE

- a. Preferred Types of Financial Assurance.** To demonstrate its capacity to perform all of its obligations under the Act and the Commission's Rules, each Operator will provide the Commission with the following types of Financial Assurance:

- (1) A Cash Bond; or
- (2) A Surety Bond.

- b. Alternative Types of Financial Assurance.** An Operator may request a hearing pursuant to Rule 503.g.(11) to obtain the Commission's approval to provide a type of Financial Assurance explicitly authorized by § 34-60-106(13)(a)–(f), C.R.S.

- (1) **Proving Equivalency.** If an Operator seeks the Commission's approval of a lien, Letter of Credit, security interest, escrow account, sinking fund, or other financial instrument that is not a Cash Bond or Surety Bond, the Operator will prove that the proposed type of Financial Assurance is equivalent to a Cash Bond or Surety Bond.
- (2) **Self-Bonding Strongly Disfavored.** Unless the Operator is a Local Government, the Commission will presumptively not accept a guarantee of performance based on an Operator's demonstration of sufficient net worth unless the Operator proves, through a personal guarantee of a corporate officer, on an annual basis:
 - A. **Audited Financial Statements.** Its current net worth, as demonstrated through financial statements certified by an auditor;
 - B. **Conservative Estimate of Net Worth.** That its net worth is greater than 20 times the full cost to Plug and Abandon and Reclaim all assets; and
 - C. **Multi-Agency Guarantees Prohibited.** The Operator is not subject to a guarantee of performance based on the same net worth as a form of Financial Assurance provided to any other local, state, tribal, or federal government agency, or to a foreign nation.

- c. Commission's Interest in Active Financial Assurance.**

- (1) **Commission's Expenditure.** All types of Financial Assurance may be expended by the Commission if an Operator fails to perform its obligations under the Act or the Commission's Rules, including its Plugging and Abandonment, Reclamation, and Remediation obligations.
- (2) **Operator's Contingent Reversionary Interest.** If an Operator fails to fulfill any of its obligations under the Act and the Commission's Rules, the Operator will have no contract or property interest in any type of Financial Assurance other than a contingent reversionary interest in the surplus, if any, which arises:
 - A. After the Director determines that the Operator has complied with all Plugging and Abandonment, Reclamation, and Remediation obligations pursuant to Rule 706.a; or
 - B. After a Buying Operator has filed a satisfactory replacement Financial Assurance pursuant to Rule 218.e.(4), and the Director has approved the applicable Form 9, Transfer of Operatorship – Subsequent.

d. Riders Prohibited.

- (1) New Riders.** The Commission will not authorize any new bond riders after January 1, 2022, except:
 - A. In the instance of an Operator changing its name without any associated transfer of assets pursuant to Rule 218; or
 - B. As the result of changing the amount of Financial Assurance provided without any associated transfer of assets pursuant to Rule 218.
 - (2) Existing Riders.** Operators whose Financial Assurance is partially or entirely provided through a rider on another Operator's bond as of January 1, 2022 will submit a Financial Assurance plan for the Director's review and approval or denial by no later than July 1, 2022, addressing the liability posed by the rider.
- e. Form 3, Financial Assurance.** To provide Financial Assurance, update or change Financial Assurance or related information pursuant to the 700 Series Rules, an Operator will file a Form 3, Financial Assurance, unless a Rule specifies a different form or notice mechanism.

702. FINANCIAL ASSURANCE FOR PLUGGING, ABANDONMENT, AND RECLAMATION

- a. Applicability.** This Rule 702 applies to every Well, Oil and Gas Location, and Oil and Gas Facility in Colorado, unless the Operator demonstrates that it has already provided or will provide Financial Assurance for the same Well, Oil and Gas Location, or Oil and Gas Facility to the federal government at the time it files a Form 2, Application for Permit to Drill, an Oil and Gas Development Plan, or a Financial Assurance plan pursuant to this Rule 702. All references to Wells in this Rule 702 includes Wells subject to an approved but not yet expired Form 2, Application for Permit to Drill that have not yet been Spud.
- b. Submission of Financial Assurance Plans.** Operators will file Financial Assurance plans as required by this Rule 702.b. Concurrently with filing a Financial Assurance plan, an Operator will file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).
 - (1) Existing Operators.** All Operators with an active Form 1, Registration for Oil and Gas Operations as of January 1, 2022 will submit a Financial Assurance plan by no later than July 1, 2022.
 - (2) New Operators.** Any Operator that files a new Form 1 after January 1, 2022 will submit a Financial Assurance plan concurrently with its Form 1.
 - (3) Revised Financial Assurance Plans.** Any Operator may file a revised Financial Assurance plan at any time if the Operator believes that a change to its approved Financial Assurance plan is warranted.
 - (4) Director's Annual Review.** The Director may require an Operator to file a revised Financial Assurance plan based on the Director's annual review pursuant to Rule 707.b.
- c. Financial Assurance Plan Tiers.**
 - (1) Tier 1.** An Operator may file a Financial Assurance plan that meets the criteria of Rule 702.d.(1) if:
 - A. Less than 20% of the Operator's Wells are Low Producing Wells; or

- B. The Operator has Plugged and Abandoned 20% of the total number of Wells it operates during the preceding 12 months.
- (2) **Tier 2.** An Operator may file a Financial Assurance plan that meets the criteria of Rule 702.d.(2) if:
- A. Less than 60% of the Operator's Wells are Low Producing Wells; or
 - B. The Operator has Plugged and Abandoned 10% of the total number of Wells it operates during the preceding 12 months.
- (3) **Tier 3.** If an Operator does not meet the criteria in Rules 702.c.(1) or (2), the Operator will file a Financial Assurance plan that meets the criteria of Rule 702.d.(3).
- d. **Contents of Financial Assurance Plans.** Financial Assurance plans will meet the informational criteria listed below. If an Operator believes an exception to the Financial Assurance amounts specified in this Rule 702.d is warranted, the Operator may prove why the proposed exception is warranted in its Financial Assurance plan without filing an application for a variance pursuant to Rule 502.
- (1) **Tier 1 Plans.** An Operator that meets the criteria of Rule 702.c.(1) will file a Financial Assurance plan that includes the following information:
- A. **Well List.** A table listing the API number, location, and status (Low Producing or not Low Producing) for all Wells the Operator operates, as of the date the Financial Assurance plan is submitted.
 - B. **Plugged Well List.** A table listing the API number, location, and plugging date of all Wells Plugged and Abandoned by the Operator during the preceding 12 months.
 - C. **Financial Assurance Amount.** The amount of Financial Assurance the Operator will provide to the Commission within 30 days of the Commission's approval of the Financial Assurance Plan, which will be:
 - i. **Blanket Financial Assurance Amount.**
 - aa. \$100,000 if the Operator operates less than 20 Wells;
 - bb. \$500,000 if the Operator operates less than 50 Wells;
 - cc. \$1,000,000 if the Operator operates less than 150 Wells;
 - dd. \$2,000,000 if the Operator operates less than 500 Wells;
 - ee. \$3,000,000 if the Operator operates less than 1500 Wells;
 - ff. \$5,000,000 if the Operator operates less than 4000 Wells;
 - gg. \$8,000,000 if the Operator operates less than 6000 Wells; or
 - hh. An amount proposed by the Operator for Commission review and approval if the Operator operators greater than or equal to 6000 Wells.
 - ii. **Inactive Well Financial Assurance.**

e. **Procedure for Review of Financial Assurance Plans.**

- (1) **Director's Review.** The Director will review Financial Assurance plans and recommend whether the Commission should accept or deny each plan.
 - A. **Recommended Acceptance.** The Director may recommend that the Commission accept the Financial Assurance plan if it complies with all the informational requirements of Rule 702.d and, in the Director's judgment, the Operator has demonstrated that it will provide adequate Financial Assurance to comply with all of its obligations under the Act and the Commission's Rules.
 - B. **Recommended Denial.** The Director may recommend that the Commission deny the Financial Assurance plan if it does not comply with all the informational requirements of Rule 702.d, or, in the Director's judgment, the Operator has not demonstrated that it will provide adequate Financial Assurance to comply with all of its obligations under the Act and the Commission's Rules.
 - C. **Additional Information.** If the Director determines that a Financial Assurance plan is incomplete, or that more information is necessary to determine whether to recommend that the Commission approve or deny the Financial Assurance plan, the Operator will provide the additional information that the Director requests. The Director will not issue a recommendation, and the Commission will not consider the Financial Assurance plan, until the Operator provides the requested information.
- (2) **Commission's Review.**
 - A. **Timing of Commission's Review.** After the Director issues a recommendation pursuant to Rule 702.e.(1), the Commission will consider the Financial Assurance plan in a hearing pursuant to Rule 510.
 - B. **Approval.** The Commission may approve a Financial Assurance plan, subject to reasonable and necessary conditions of approval, if it determines that the plan meets all applicable requirements of this Rule 702 and demonstrates that the Operator will provide adequate Financial Assurance to comply with all of its obligations under the Act and the Commission's Rules.
 - C. **Denial.** The Commission may deny a Financial Assurance plan if it determines that the plan does not comply with this Rule 702 or does not demonstrate that the Operator will provide adequate Financial Assurance to comply with all of its obligations under the Act and the Commission's Rules.
 - D. **Additional Information.** The Commission, Administrative Law Judge, or Hearing Officer may require an Operator to submit additional information or evidence in support of its Financial Assurance plan, pursuant to Rule 505.f.
 - E. **Commission's Order.** The Commission will issue an order memorializing its ruling on the Financial Assurance plan following the Hearing. The order may include, at the Commission's discretion, one or more of the following requirements:
 - i. **Deadlines.** Specific dates by which the Operator will reach full compliance with its Financial Assurance plan, or Plug and Abandon certain Wells;
 - ii. **Progress Reports.** A periodic report to the Commission or Director on the Operator's progress towards meeting certain required actions;

- iii. **Plan Renewal.** Re-submission of a Financial Assurance plan at a future date to afford the Commission an opportunity to review any changes in the Operator's financial status; or
 - iv. **Financial Assurance Amount.** The amount of Financial Assurance an Operator must provide, which may be greater than the minimum amount specified in Rules 702, 703, or 704.
- f. **Transition Period.** The Commission will consider any Financial Assurance in place as of December 31, 2021 as being applied towards the Operator's ongoing Financial Assurance obligations after January 1, 2022, unless the Commission issues an order specifying otherwise.

703. FINANCIAL ASSURANCE FOR OTHER OIL AND GAS FACILITIES & OPERATIONS

a. Centralized E&P Waste Management Facilities.

- (1) **Submission of Financial Assurance.** Pursuant to Rule 907.d, prior to the Director's approval of a Form 28, Centralized E&P Waste Management Facility Permit, the Operator will provide the Commission with Financial Assurance.
- (2) **Amount of Financial Assurance.** The Operator will provide Financial Assurance in an amount equal to the estimated cost necessary to ensure the proper Remediation, Reclamation, closure, and abandonment of the Centralized E&P Waste Management Facility. The Director may require the Operator to adjust the amount of Financial Assurance it provides to account for inflation pursuant to Rule 707.a.(1).A.
- (3) **Release of Financial Assurance.** Financial Assurance submitted pursuant to this Rule 703.a will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that:
 - A. The Operator has transferred the Centralized E&P Waste Management Facility pursuant to Rule 218;
 - B. The Director has approved final closure and Reclamation of the Centralized E&P Waste Management Facility pursuant to Rule 907.h and the Commission's 1000 Series Rules; or
 - C. The Operator has filed a Form 4 to abandon the permit for the Centralized E&P Waste Management Facility without constructing the facility, and the facility passes an inspection for permit abandonment.

b. Seismic Operations.

- (1) **Submission of Financial Assurance.** At the time an Operator submits a Form 20, Permit to Conduct Seismic Operations pursuant to Rule 313, the Operator will file Financial Assurance to ensure the proper Plugging and Abandonment of any shot holes and any necessary surface Reclamation.
- (2) **Amount of Financial Assurance.** The Operator will provide statewide blanket Financial Assurance in the amount of \$25,000, adjusted for inflation pursuant to Rule 707.a.(1).A.
- (3) **Release of Financial Assurance.** The Financial Assurance will remain in effect until the until the Operator submits a written request for release of the Financial Assurance demonstrating that following conditions have been met:

- A. All shotholes have been properly Plugged and Abandoned pursuant to Rule 436.e.(4);
 - B. The Reclamation required by Rule 436.h has been completed;
 - C. The Operator has submitted and the Director has approved the Form 20A for all Seismic Operations covered by the Financial Assurance; and
 - D. All complaints received from Surface Owners have been investigated, addressed, and resolved by the Director pursuant to Rule 524.
- c. Gas Gathering, Gas Processing, and Underground Gas Storage Facilities.**
- (1) Submission of Financial Assurance.** At the time an Operator submits a Form 12, Gas Facility Registration, the Operator of a gas gathering, gas processing, or underground gas storage facility will provide Financial Assurance to ensure compliance with the Commission's 900 Series Rules.
 - (2) Amount of Financial Assurance.**
 - A. The Operator will provide Financial Assurance in the amount of \$50,000 per Gas Facility, adjusted for inflation pursuant to Rule 707.a.(1).A, unless the gas gathering or gas processing system meets the criteria of Rule 703.c.(2).B.
 - B. Operators of small systems gathering or processing less than 5 million standard cubic feet per day ("MMSCFD") may provide individual Financial Assurance in the amount of \$5,000, adjusted for inflation pursuant to Rule 707.a.(1).A.
 - (3) Release of Financial Assurance.** Financial Assurance submitted pursuant to this Rule 703.c will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that:
 - A. The Operator has transferred the facility to another Operator pursuant to Rule 218; or
 - B. The Operator has fully decommissioned the facility, and any outstanding Spills, Releases, and Remediation projects have been closed pursuant to the Commission's 900 Series Rules.
- d. Produced Water Transfer Systems.**
- (1) Submission of Financial Assurance.** At the time an Operator submits a Form 44, Flowline Report to register a Produced Water Transfer System pursuant to Rule 1101.d.(1), the Operator will provide Financial Assurance to ensure compliance with the Commission's 900 Series Rules.
 - (2) Amount of Financial Assurance.**
 - A. The Operator will provide Financial Assurance in the amount of \$50,000 per facility, adjusted for inflation pursuant to Rule 707.a.(1).A, unless the Produced Water Transfer System meets the criteria of Rule 703.d.(2).B.
 - B. Operators of small systems transferring less than 700 Barrels of water per day may provide individual Financial Assurance in the amount of \$5,000, adjusted for inflation pursuant to Rule 707.a.(1).A.

- (3) **Release of Financial Assurance.** Financial Assurance submitted pursuant to this Rule 703.d will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that:
- A. The Operator has transferred the Produced Water Transfer System to another Operator pursuant to Rule 218; or
 - B. The Operator has fully decommissioned the Produced Water Transfer System, and any outstanding Spills, Releases, and Remediation projects have been closed pursuant to the Commission's 900 Series Rules.

e. **Commercial Disposal Wells.**

- (1) **Submission of Financial Assurance.** At the time an Operator submits an application for a new Commercial Disposal Well pursuant to Rule 810.a, the Operator will provide Financial Assurance to ensure compliance with the Commission's 900 Series Rules by all surface facilities and structures appurtenant to the Commercial Disposal Well. This Rule 703.e does not relieve the Operator of its obligation to provide Financial Assurance for the Well itself pursuant to Rule 702.
- (2) **Amount of Financial Assurance.** The Operator will provide \$100,000 in Financial Assurance for each Commercial Disposal Well facility, adjusted for inflation pursuant to Rule 707.a.(1).A.
- (3) **Release of Financial Assurance.** Financial Assurance submitted pursuant to this Rule 703.e will remain in effect until the Operator submits a written request for release of the Financial Assurance demonstrating that:
- A. The Operator has transferred the Commercial Disposal Well to another Operator pursuant to Rule 218; or
 - B. The Operator has Plugged and Abandoned the Commercial Disposal Well, passed final Reclamation for the Oil and Gas Location and all surface facilities appurtenant to the Well, and has completed any Remediation required by the Commission's 900 Series Rules.

704. SURFACE OWNER PROTECTION BONDS

- a. **When Surface Owner Protection Bonds Are Required.** To protect Surface Owners from unreasonable crop loss or land damage caused by Oil and Gas Operations, if a Surface Owner is not a party to a lease, Surface Use Agreement, or other relevant agreement with an Operator, the Operator will provide Financial Assurance to the Commission prior to commencing any operations with heavy equipment on that Surface Owner's property.
- (1) **Amount of Financial Assurance.** Operators will provide Financial Assurance of:
- A. \$2,000 per Well for non-irrigated land;
 - B. \$5,000 per Well for irrigated land; or
 - C. \$25,000 as a statewide blanket bond.
- (2) **State Lands.** If Oil and Gas Operations are conducted on state lands and a bond has been filed with the State Board of Land Commissioners, an Operator need not file a Surface Owner protection bond pursuant to this Rule 704.

- b. Procedures for Claiming Surface Owner Protection Bonds.** A Surface Owner may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) if the Surface Owner believes that crop loss or other damage caused by Oil and Gas Operations subject to this Rule 704 is unreasonable.
- (1) The Surface Owner will bear the burden of proving that it has withstood unreasonable crop loss or land damage.
 - (2) If the Commission finds in favor of the Surface Owner, the Commission may order an Operator to conduct corrective or remedial action, provide a monetary award for unreasonable crop loss or land damage that cannot be Remediated or corrected, or other relief as appropriate. The amount of such a monetary award is not limited to the amount of the Operator's Financial Assurance provided pursuant to this Rule 704.
- c. Release of Financial Assurance.** Financial Assurance provided pursuant to this Rule 704 will be held until:
- (1) For an individual Surface Owner protection bond:
 - A. The Operator transfers the Well subject to the Surface Owner protection bond pursuant to Rule 218;
 - B. The Operator Plugs and Abandons the Well subject to the Surface Owner protection bond, the Well passes final Reclamation, and any necessary Remediation is conducted as demonstrated by closure of any Form 19, Spill/Release Report or Form 27, Site Investigation and Remediation Workplan;
 - C. The Operator files a Form 4 to abandon the permit for the Well subject to the Surface Owner protection bond without constructing the Oil and Gas Location or Spudding the Well, and the Well passes an inspection for permit abandonment; or
 - D. The Operator enters into a Surface Use Agreement, lease, or other relevant agreement with the Surface Owner.
 - (2) For a blanket Surface Owner protection bond:
 - A. The Operator transfers all drilled Wells subject to the Surface Owner protection bond pursuant to Rule 218;
 - B. The Operator Plugs and Abandons all drilled Wells subject to the Surface Owner protection bond, all Wells subject to the Surface Owner protection bond pass final Reclamation, and any necessary Remediation is conducted as demonstrated by closure of any Form 19 or Form 27;
 - C. The Operator files a Form 4 to abandon the permit for all Wells subject to the Surface Owner protection bond without constructing the Oil and Gas Location(s) or Spudding the Well(s), and the Well(s) pass an inspection for permit abandonment; or
 - D. The Operator enters into a Surface Use Agreement, lease, or other relevant agreement with all Surface Owners subject to the Surface Owner protection bond.

705. INSURANCE

a. General Liability Insurance.

- (1) All Operators will maintain general liability insurance coverage for property damage and bodily injury to third parties in the minimum amount of \$1,000,000 per occurrence.
- (2) All such general liability insurance policies will include the Commission as a “certificate holder” so that the Commission may receive advance notice of cancellation.
- (3) Operators will demonstrate their compliance with Rule 705.a by providing information about their insurance coverage on their Form 1.
- (4) Operators will provide notice of any renewals or changes to their general liability insurance during the prior 12 months on their Form 1B, Annual Well Registration.

b. Environmental Liability Insurance.

- (1) All Operators will maintain environmental liability insurance coverage for sudden, accidental, and gradual pollution that requires Remediation in the minimum amount of \$5,000,000 per occurrence.
- (2) All such environmental liability insurance policies will include the Commission as an “additional insured.”
- (3) Operators will demonstrate their compliance with Rule 705.b by providing information about their insurance coverage on their Form 1.
- (4) Operators will provide notice of any renewals or changes to their environmental liability insurance during the prior 12 months on their Form 1B.
- (5) Operators will provide information about their environmental liability insurance coverage and whether that coverage is sufficient to cover Remediation costs on the Form 19 – Supplemental or Form 27 the Operator files pursuant to Rule 912.b.(6).

706. RELEASE OR CLAIM OF FINANCIAL ASSURANCE

a. **When Financial Assurance Reverts to Operators.** The Director will release part or all of an Operator’s Financial Assurance, including any accrued interest from a Cash Bond, if the Operator submits a Form 3 requesting release of the Financial Assurance, and any of the following conditions have been met:

- (1) **Full Compliance.** The Director determines that an Operator has fully complied with all of its statutory and regulatory obligations for Plugging and Abandonment, Remediation, and Reclamation of all Oil and Gas Facilities subject to the Operator’s control pursuant to the Commission’s Rules;
- (2) **Transfer of Operatorship.** The Director approves a Form 9 – Subsequent pursuant to Rule 218.e.(4) certifying that one or more Buying Operator(s) have filed sufficient replacement Financial Assurance for all Wells, Oil and Gas Locations, and Oil and Gas Facilities subject to the Operator’s control;
- (3) **Other Facilities and Operations.** The Operator meets the requirements for release of Financial Assurance held for a specific category of facility or operation identified in Rule 703 or for release of a Surface Owner protection bond pursuant to Rule 704.c; or

- (4) **Inactive Wells.** The Operator fully Plugs and Abandons and Reclaims an Inactive Well that has been transferred pursuant to Rule 218, that was subject to single Well Financial Assurance requirements pursuant to Rule 434.c.(2), or was on the Operator's plugging list for more than three years pursuant to Rule 434.c.(3).
 - (5) **Abandonment of Permit without Construction.** The Operator abandons a permit for a Well, Oil and Gas Location, or Oil and Gas Facility without disturbing the surface or otherwise constructing the applicable facility, and files a Form 4, Sundry Notice to formally request abandonment of the permit.
- b. **Procedure for Director to Access Financial Assurance.** If an Operator fails to fulfill its statutory and regulatory obligations for Plugging and Abandonment, Remediation, and Reclamation, the Director will suspend the Operator's Form 1 and Form 10, Certificate of Clearance and will file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) to claim the Operator's Financial Assurance.
- (1) **Hearing Procedures.** The Secretary will serve notice of the Director's hearing application on the Operator and, where applicable, any applicable third-party provider of the Financial Assurance pursuant to Rule 504.

 - A. The Operator, third-party provider of Financial Assurance, and any other Affected Person may petition to participate in the hearing pursuant to Rule 507.
 - B. If no petition is filed, the matter may be resolved as an uncontested matter on the Commission's consent agenda pursuant to Rules 508 & 519.
 - C. At hearing, the Commission has discretion to order appropriate relief, including but not limited to permanently revoking the Operator's license to conduct Oil and Gas Operations in Colorado.
 - (2) **Director's Action to Claim Financial Assurance Pursuant to Commission Order.** If the Commission approves the Director's application to claim the Operator's Financial Assurance, the Director will:

 - A. Transfer any Cash Bond to the Oil and Gas Conservation and Environmental Response Fund;
 - B. Call any Surety Bond or Letter of Credit held by a third party for the benefit of the Commission and deposit the called funds in the Oil and Gas Conservation and Environmental Response Fund;
 - C. Foreclose upon any liens or otherwise secured real or physical property held as a form of Financial Assurance and deposit the foreclosed funds in the Oil and Gas Conservation and Environmental Response Fund; and
 - D. Take any other actions necessary to liquidate and transfer any other assets held as Financial Assurance into the Oil and Gas Conservation and Environmental Response Fund.
- c. **Recalcitrant Bond Providers.** If a third-party provider of Financial Assurance fails to comply with the terms of a financial instrument, or with a Commission order calling a Surety Bond, Letter of Credit, or other form of Financial Assurance, the Director may designate that third-party provider to be an unacceptable provider. The Director will maintain a list of all unacceptable Financial Assurance providers on the Commission's website.

- (1) **Reinstatement of Unacceptable Third-Party Providers.** The Director will not accept any new Financial Assurance that an Operator seeks to provide through an unacceptable provider until the third-party provider applies for a hearing before the Commission pursuant to Rule 503.g.(11) and obtains an order of reinstatement from the Commission.
 - (2) **Suits to Recover Financial Assurance.** The Commission may file suit pursuant to § 34-60-109, C.R.S., to recover Financial Assurance based on a valid Commission order claiming the Financial Assurance pursuant to Rule 706.b.(2).
- d. **Refund of Claimed Financial Assurance.** If any portion of an Operator's Financial Assurance that is claimed pursuant to Rule 706.b is not needed to cover the full costs of Plugging and Abandonment, Reclamation, and Remediation of an Orphaned Site, the Director will refund the remainder of the Financial Assurance to the entity that provided the Financial Assurance. The Director may claim an overhead recovery fee of 10% of the funds as direct costs charged against any Financial Assurance that would otherwise be refunded to the entity that provided the Financial Assurance.

707. REVIEW OF FINANCIAL ASSURANCE

a. Director's Review of Financial Assurance.

- (1) **Annual Review.** Beginning July 1, 2023, the Director will conduct a review of the Financial Assurance provided by every Operator with an active Form 1 at least once every fiscal year to ensure that the Operator has provided adequate Financial Assurance.
 - A. The Director's review may include whether the Operator's Financial Assurance should be updated to reflect inflation.
 - B. The Director's review will include the Operator's insurance coverage and whether any Financial Assurance the Operator has provided is sufficient to address the Operator's Remediation obligations under the Commission's 900 Series Rules.
 - C. If the Director determines that an Operator has not provided adequate Financial Assurance pursuant to the Commission's 700 Series Rules, the Director will notify the Operator in writing and provide a reasonable timeframe for the Operator to cure the deficiency. The Director may also require the Operator to file a revised Financial Assurance plan pursuant to Rule 702.b.(4).
 - D. If the Operator disagrees with the Director's determination, the Operator may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11).
- (2) **Discretionary Review.** If the Director has reasonable cause to believe that the Commission may become burdened with the costs of fulfilling an Operator's Plugging and Abandonment, Reclamation, or Remediation obligations under the Act or the Commission's Rules because the Operator has demonstrated a pattern of non-compliance with the Commission's Rules or other unique circumstances, the Director may file an application for a Financial Assurance hearing pursuant to Rule 503.g.(11) to obtain the Commission's approval of a plan for the Operator to provide additional Financial Assurance beyond what would otherwise be required under the Commission's 700 Series Rules.

b. Commission's Review of Financial Assurance.

- (1) **Annual Review.** If more than 75% of an Operator's Wells meet the definition of Low Producing Well, or 50% of an Operator's Wells meet the definition of an Inactive Well, at the time the Director commences her Annual Review pursuant to Rule 707.a, the Director

will seek a Financial Assurance hearing pursuant to Rule 503.g.(11) to afford the Commission an opportunity to review the Operator's Financial Assurance. The Operator will submit the following information into the docket for the hearing:

- A. The Operator's future plans for the Inactive Wells;
 - B. A demonstration that the Operator has financial capacity to properly Plug and Abandon and fully Reclaim the Inactive Wells and Low Producing Wells; and
 - C. Any other information requested by the Director, Hearing Officer, Administrative Law Judge, or Commission.
- (2) **Commission's Own Motion.**
- A. At any time, the Commission may commence a Financial Assurance hearing for any Operator on its own motion pursuant to Rule 503.a.
 - B. **Procedure for Commission Hearing.**
 - i. **Notice.** If the Commission commences a hearing on its own motion pursuant to this Rule 707.b.(2), the Secretary will provide notice to the Operator pursuant to Rule 504.b.(10).B.
 - ii. **Evidence.** The Operator will submit all information requested by the Commission into the evidentiary record for the hearing pursuant to Rule 503.g.(11), including but not limited to information regarding the status and production of its Wells, its present Financial Assurance, and relevant metrics of its financial status.
 - iii. **Financial Assurance Plan.** The Commission may require an Operator to submit a Financial Assurance plan pursuant to Rule 702.b prior to the Financial Assurance hearing.
- (3) **Commission Order.** The Commission's final order regarding the Operator's Financial Assurance may require an Operator to provide additional Financial Assurance beyond what is ordinarily required by the Commission's Rules based on the unique circumstances of the Operator, if those circumstances demonstrate a risk of the Operator being unable to comply with its obligations to Plug and Abandon Wells, perform proper Reclamation, or perform proper Remediation.

**UNDERGROUND INJECTION FOR DISPOSAL AND ENHANCED RECOVERY PROJECTS
800 SERIES**

810. COMMERCIAL DISPOSAL WELLS AND FACILITIES

a. Applications for new Commercial Disposal Wells will:

- (1) Satisfy the requirements of Rules 803, 804, 805, 806, 807, and 808.
- (2) Meet the Financial Assurance requirements of Rules ~~7026~~, ~~707~~, and ~~7043.e~~.

DRAFT

**ENVIRONMENTAL IMPACT PREVENTION
900 SERIES**

907. CENTRALIZED E&P WASTE MANAGEMENT FACILITIES

- d. **Financial Assurance.** The Operator of a Centralized E&P Waste Management Facility will submit for the Director's approval such Financial Assurance as required by Rule 703.a4 prior to the Director ~~issuing the operating permit~~approving the Form 28.

- h. **Closure.**
 - (1) **Preliminary Closure Plan.** A general preliminary plan for closure will be submitted with the Form 28. The preliminary closure plan will include, but not be limited to:
 - A. A general plan for closure and Reclamation of the entire facility, including a description of the activities required to decommission and remove all equipment, close and reclaim Pits, dispose of or treat residual waste, collect samples as needed to verify compliance with soil and Groundwater standards, implement post-closure monitoring, and complete other Remediation, as required.
 - B. An estimate of the cost to close and reclaim the entire facility and to conduct post-closure monitoring. Cost estimates will be subject to review by the Director to verify that the Financial Assurance provided pursuant to Rules 907.d and 703.a4 is appropriate.
 - (2) **Final Closure Plan.** The Operator will submit a detailed Form 27 at least 60 days prior to closure for approval or denial by the Director. The workplan will include, but not be limited to, a description of the activities required to decommission and remove all equipment, close and reclaim Pits, dispose of or treat residual waste, collect samples as needed to verify compliance with soil and Groundwater standards, implement post-closure monitoring, and complete other Remediation and Reclamation, as required.

912. SPILLS AND RELEASES

b. Reporting Spills or Releases of E&P Waste, Gas, or Produced Fluids.

- (6) No later than 90 days after a Spill or Release is discovered, the Operator will have submitted, and obtained the Director's approval of either:
 - A. A Form 19 – Supplemental requesting closure pursuant to Rule 913.h and supported by adequate documentation to demonstrate that the Spill or Release has been fully cleaned up and complies with Table 915-1; or
 - B. A Form 27 if any of the criteria listed in Rules 912.b.(6).B.i–iii apply. If Remediation will continue under an approved Form 27, the Operator will also submit a Form 19 – Supplemental which requests closure of the Spill or Release and includes the Remediation project number assigned by the Director.
 - i. A Form 27 is required by the Commission's Rules;
 - ii. Cleanup or Remediation will continue for longer than 90 days after the Spill or Release was discovered; or
 - iii. The Director requests a Form 27.

- C. On the Form 19 – Supplemental or Form 27 submitted pursuant to this Rule 912.b.(6), the Operator will provide information about any applicable environmental liability insurance pursuant to Rule 705.b.(5).

913. SITE INVESTIGATION, REMEDIATION, AND CLOSURE

- e. **Reporting Schedule.** After initial approval of a Form 27, the Operator will provide quarterly update reports in a Supplemental Form 27 to document progress of site investigation and Remediation, unless an alternative reporting schedule has been requested by the Operator and approved by the Director. The Director may request a more frequent reporting schedule based on site-specific conditions.

- (1) Operators may not change the reporting schedule without the Director's approval.
- (2) By April 15, 2021, Operators of existing ~~remediation~~ Remediation projects approved prior to January 15, 2021 will submit a Supplemental Form 27 with a detailed project summary and status.
- (3) For existing ~~remediation~~ Remediation projects approved prior to January 15, 2021, the Operator will adopt a quarterly reporting schedule unless a more frequent or specific reporting schedule was already approved by the Director.
- ~~(3)~~(4) At least one of the Operator's quarterly reports each calendar year will address the adequacy of environmental liability insurance held by the Operator pursuant to Rule 705.b, or Financial Assurance otherwise provided by the Operator, to fully address the anticipated costs of Remediation.

i. Release of Financial Assurance.

- (1) In reviewing an Operator's Form 27, if the Director determines that the Operator's environmental liability insurance or Financial Assurance is inadequate to address the scope of Remediation activities contemplated by the form, the Director may require the Operator to provide Financial Assurance, or additional Financial Assurance, as a condition of approval.
 - A. If an Operator disagrees with the Director's determination, the Operator may file an application for a Financial Assurance hearing before the Commission pursuant to Rule 503.g.(11).
 - B. The Director may conditionally approve the Operator's Form 27, and the Operator may commence Remediation activities, prior to the Commission issuing a final order in such a hearing.
- ~~(4)~~(2) Release of Financial Assurance. Financial Assurance required by this Rule 913.i and the Commission's 700 Series Rules 706 ~~may will~~ be held by the Director until the required Remediation of soil and/or Groundwater impacts is completed ~~in accordance with pursuant to~~ the approved workplan and Rule 913.h, ~~or until cleanup goals are met.~~