

Comparison of Oil and Gas Statutes and Regulations for Riparian Areas in the Intermountain West

	Colorado	Montana	New Mexico	Utah	Wyoming
Statutes					
General:	<p>COGCC Additional Powers: the Commission has the authority to regulate "(d) Oil and gas operations so as to prevent and mitigate significant adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations to the extent necessary to protect public health, safety, and welfare, including protection of the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility." (COGCC Rules 902-D (2009)).</p>	<p>Clean Up Orders: "DEQ may require [a] person to clean up any materials that the person has dumped, spilled, or deposited in or near state waters and may pollute those waters, even if state or local government had authorized the person to discharge waste." (Mont. Code Ann. § 75-5-601 (2007)).</p>	None	None	None

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Acts:	None	Natural Streambed and Land Preservation Act of 1975 : "the state's natural rivers and streams and the lands adjacent to them are to be protected and preserved to be available in their natural or existing state..." (Mont. Code Ann. § 75-7-102 (2007)).	None	None	Wyoming Wetlands Act : "water is one of Wyoming's most important natural resources, and the protection, development, and management of Wyoming's water resources is essential...in view of the...importance of wetlands, water development and management, and industry, it is hereby declared to be the wetlands policy of this state and water management and development and wetland preservation activities should be balanced to protect and accomodate private property, industry, water and wetland interests and objectives." (Wyo. Code Ann. § 35-11-309(a) and (e) (2009)).
	None	Lakeshore Policy : "state recognizes the value of natural lakes and lakeshore property, and...[t]herefore, the state legislature intends to confer adequate statutory power to local governments to protect lakes, so long as the powers are used to maintain public health, welfare, and safety." (Mont. Code Ann. § 75-7-201 (20087)).	None	None	None

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	None	Stream Protection State Policy: "to protect, particular fishing waters within the state to the end that they be available for all time, without change, in their natural existing state except as may be necessary and appropriate after due consideration of all factors involved." (Mont. Code Ann. § 75-7-502 (2007)).	None	None	None
Regulations:					
Definitions:	Sensitive Area Definition: A sensitive area "is an area vulnerable to potential significant adverse groundwater impacts, due to factors such as the presence of shallow groundwater or pathways for communication with deeper groundwater; proximity to surface water, including lakes, rivers, perennial or intermittent streams, creeks, irrigation canals, and wetlands." (COGCC Rules 100 (2009)).	None	Water Pollution Definition: "Introducing or permitting the introduction into water, either directly or indirectly, of one or more contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or property use." (N.M. Code R. § 19-15-2-7(W)(5) (2009)).	Pollution Definition: Pollution is "such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, or the discharge of any liquid gaseous or solid substance into any waters of the state in such manner that will create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life." (Utah Admin. Code r. 649-1-1 (2003)).	None

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	<p>Definition of Waters of the State: Waters of the State "mean any and all surface and subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, water in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. Waters of the state include, but are not limited to, all streams, lakes, ponds, impounding reservoirs, wetlands, watercourses, waterways, wells, springs, irrigation ditches or canals, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the State." (COGCC Rules 100 (2009)).</p>	None	<p>Wetlands Definition: Wetlands are "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico." (N.M. Code R. § 19-15-2-7(W)(9) (2009)).</p>	None	None
Information Requirements:	<p>Information Requirements: Operators are encouraged to submit "(11) Proposed best management practices or mitigation to minimize adverse impacts to resources such as air, water, or wildlife resources." (COGCC Rules 216(c)(11) (2009)).</p>	None	None	None	None

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	<p>Oil and Gas Location Assessment Information Requirements: Information required may include "D. A topographic map showing all surface waters and riparian areas within one thousand (1,000) feet of the proposed oil and gas location, with a horizontal distance and approximate bearing from the oil and gas location." (COGCC Rules 303(d)(3)(D) (2009)).</p>	None	None	None	None
Pollution Control	<p>Pollution Prevention: "a. The operator shall take precautions to prevent significant adverse environmental impacts to air, water, soil, or biological resources to the extent necessary to protect public health, safety and welfare, including the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility to prevent the unauthorized discharge of oil, gas, E&P waste... or other oil field waste." (COGCC Rules 324A(a) (2009)).</p>	None	None	<p>Pollution and Surface Damage Control: "The operator shall take all reasonable precautions to avoid polluting lands, streams, reservoirs, natural drainage ways, and underground water." (Utah Admin. Code r. 649-3-15(1) (2003)).</p>	None

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	None	None	None	<p>Pollution Control in Great Salt Lake: "[i]n the conduct of all oil and gas operations, the operator shall prevent pollution of the waters of the Great Salt Lake...Oil in any form, liquid or solid wastes containing oil, shall not be disposed of into the waters of the lake...Liquid or solid waste materials containing substances that may be harmful to aquatic life or wildlife, or injurious in any manner to life and property, or that in anyway unreasonably adversely affects the chemicals or minerals in the lake shall not be disposed of into the waters of the lake." (Utah Admin. Code r. 649-3-22(7.1-7.2) (2003)).</p>	None

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Siting Requirements:	<p>Locations in Wetlands: "f. Oil and gas locations in wetlands. In the event that an operator, otherwise required to file a Form 2A, acquires an Army Corps of Engineers permit pursuant to 33 U.S.C.A § 1342 and 1344 of the Water Pollution and Control Act (Section 404 of the federal "Clean Water Act") for construction of an oil and gas location, the operator shall so indicate on the Oil and Gas Location Assessment, Form 2A." (COGCC Rules 303(f) (2009)).</p>	None	<p>Siting Requirements: Temporary pits, Below-Grade Tanks, Permanent Pits, Material Excavated from a Pit's construction, Emergency pits, or On-site Closure methods: cannot be located: (b) within 300 feet of a continuously flowing watercourse, or 200 feet of any other significant watercourse or lakebed, sinkhole, or playa lake...unless the appropriate division district office approves an alterante distance based upon the operator's demonstration that surface and ground water will be protected." (N.M. Code R. § 19-15-17-10(B) (2009)).</p>	None	<p>Siting of Workover and Completion Pits in Critical Areas: Industry must obtain approval for these type of pits in critical areas as defined in Chapter 1, Section (2)(kk). Critical areas include "(iii) locations which are within five hundred fee (500') of wetlands, ponds, lakes, perennial drainages or within a floodplain." (Chap. 1 § 2(kk) (2009)).</p>
Pits:	<p>Pits Generally: "a. Pits used for exploration and production of oil and gas shall be constructed and operated to protect public health, safety, and welfare and the environment, including soil, waters of the state, and wildlife, from significant adverse environmental, public health, or welfare imapcts from E&P waste, except as permitted by applicable laws and regulations." (COGCC Rules 902(a) (2009)).</p>	None	None	None	<p>Pits Generally: Unlined pits are prohibited and "[p]its of any kind shall not be constructed in drainages, or in the floodplain of a flowing or intermittent stream, or in an area where there is standing water during any portion of the year." (Chap. 4 § 1(v) (2008)).</p>

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	None	None	None	None	<p>Pit Construction: Pits must be lined when constructed in "sites with sandy soils, shallow groundwater, in groundwater recharge areas, or sites immediately adjacent to the Green River or Colorado River drainage and other sensitive environments or circumstances identified by the Commission." (Chap. 4 § 1(w) (2008)).</p>
	None	None	None	None	<p>Produced Water Pits: Before placing a pit the operator must provide information regarding "distance to closest surface water, depth to groundwater, subsoil type and type of sealing material. A plan view map and topographic map of sufficient size and detail to determine surface drainage system and all natural waterways and irrigation systems." (Chap. 4 § 1(r)(i) (2008)).</p>

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General Operating Procedures:	<p>Management of E&P Wastes: "(2) E&P waste management activities shall be conducted, and facilities constructed and operated, to protect the waters of the state from significant adverse environmental impacts from E&P waste, except as permitted by applicable laws and regulations." (COGCC Rules 907(a)(2) (2009)).</p>	<p>Water Quality: Rules in Chapter 30, section 601 "are adopted to conserve water by protecting, maintaining, and improving the quality and potability of water for public water supplies, wildlife, fish and aquatic life, agriculture, industry, recreation, and other beneficial uses." (Mont. Admin. Code r. 17.30.601 (2009)0.</p>	None	None	<p>General Operation Processes: "The owner or operator shall not pollute streams, underground water, or unreasonably damage or occupy the surface of the leased premises or other lands. At no time will the fluid contents of any pit be discharged or allowed to escape to the surface water without prior approval through issuance of an NPDES permit by DEQ and other required authorization. At no time will drilling fluids be discharged into live waters or into any drainages that lead to live waters of the state." (Chap. 4 § 1(ee) (2008)).</p>
	<p>General Operating Requirements: "(4) Establish new staging, refueling, and chemical storage areas outside of riparian zones and floodplains. (5) Use minimum practical construction widths for new rights-of-way where pipelines cross riparian areas, streams, and critical habitats." (COGCC Rules 1204(a)(4-5) (2009)).</p>	None	None	None	None

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Reclamation:	<p>Reclamation: "Notwithstanding the provisions of the 1000 Series rules, when the Director has reasonable cause to believe that a proposed oil and gas operation could result in a significant adverse environmental impact on any air, water, soil, or biological resource, the Director shall conduct an onsite inspection and may request an emergency meeting of the Commission to address the issue." (COGCC Rules 1000(b) (2009)).</p>	None	None	None	None

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Spills and Releases:	<p>Spills and Releases: "a. Spills/releases of E&P waste, including produced fluids, shall be controlled and contained immediately upon discovery to protect the environment, public health, safety, and welfare, and wildlife resources. Impacts resulting from spills/releases shall be investigated and cleaned up as soon as practicable. The Director may require additional activities to prevent or mitigate threatened or actual significant adverse environmental impacts on any air, water, soil or biological resource, or to the extent necessary to ensure compliance with the concentration levels in Table 910-1, with consideration to WQCC ground water standards and classifications." (COGCC Rules 906(a) (2009)).</p>	None	None	None	None

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Access Roads:	<p>Access Roads: "Existing roads shall be used to the greatest extent practicable to avoid erosion and minimize the land area devoted to oil and gas operations. Roadbeds shall be engineered to avoid or minimize impacts to riparian areas or wetlands to the extent practicable. Unavoidable impacts shall be mitigated. Road crossings of streams shall be designed and constructed to allow fish passage, where practicable and appropriate." (COGCC Rules 1002(e)(4) (2009)).</p>	None	None	None	None