

2016 Enforcement Summary

The COGCC Enforcement Program compiles a number of regular reports that summarize enforcement activities. COGCC Staff conducted a review of one such report, the 2016 Annual Violations and Penalties Report under Executive Order No. D 2013-004, which revealed that the following seven categories of violations were most frequently cited in enforcement orders entered in 2016. Multiple guidance documents are available to assist operators in complying with these requirements. A more detailed write-up of these seven categories follows. This discussion will hopefully provide additional guidance from an enforcement perspective.

Rule 308A/308B - COGCC Form 5/ Form 5A

The Form 5 (Drilling Completion Report) provides crucial information about an operator's wellbore. This information helps COGCC double-check that an operator has complied with their drilling permit, avoid wellbore collisions, and helps protect groundwater, among other things. The Form 5A (Completed Interval Report) provides important information regarding completed formations and is tied to reporting on the Form 7 (next topic). These forms must be timely filed, complete and accurate. Operators encountered compliance issues in 2016 when these forms were not timely filed or were not approvable by COGCC Staff as filed.

Guidance documents regarding these forms can be found here:

<http://cogcc.state.co.us/reg.html#/forms/form5> new

<http://cogcc.state.co.us/reg.html#/forms/form5a> new

Rule 309 - COGCC Form 7

A Form 7 (Operator's Monthly Report of Operations) must be filed for every well, 45 days after the end of the month, from spud to one month after plugging. Operator's encountered compliance issues when they assumed that a Form 7 does not need to be filed for Shut-In (SI) or Temporarily Abandoned (TA) wells. That is not the case. A Form 7 is due for both producing and non-producing wells from spud to one month after plugging. Other operators failed to comply with Rule 309 when the responsibility to file Form 7s had been delegated to one individual who left the company, grew ill, etc. Operators are advised to have a mechanism in place to ensure that Form 7 reporting continues even in the absence of key staff.

Guidance documents regarding Form 7s can be found here:

<http://cogcc.state.co.us/reg.html#/forms/form7> new

Rule 326 - Mechanical Integrity Testing (MIT)

Far and away, the most frequently cited rule in 2016 enforcement orders was Rule 326. Rule 326 sets forth the COGCC's requirements to test the mechanical integrity of non-producing wells. With regard to injection wells, it's important to remember that failure to comply with two subparts of Rule 326 (326.a and 326.f(2) – regarding initial and subsequent MIT testing of injection wells and failed MIT tests at

injection wells, respectively) will result in immediate issuance of a Notice of Alleged Violation (NOAV) pursuant to the Enforcement Guidance and Penalty Policy.

For non-injection wells, Operator's frequently encountered compliance issues at SI and TA wells. The timeframe within which an MIT comes due differs between SI and TA wells so an understanding of the difference is important. SI wells can be "turned on" easily and will produce. TA wells require mechanical intervention before they will produce. An MIT comes due within two years of a well being SI whereas an MIT is due within 30 days at TA wells. Understanding the distinction between SI and TA wells and knowing that non-producing wells must be tested for mechanical integrity is important to stay in compliance with Rule 326.

Guidance documents regarding MITs can be found here:

<http://cogcc.state.co.us/documents/reg/OpGuidance/Rule%20326%20Mechanical%20Integrity%20-%205-15-15.pdf>

http://cogcc.state.co.us/documents/reg/OpGuidance/COGCC_MIT_Practice%20and%20Procedures_Guidance_06-08-2016.pdf

Rule 605 - Oil & Gas Facilities (Berms)

Rule 605 contains a number of subparts, but the most frequently cited in 2016 enforcement orders was 605.a(4) which states that ". . . Berms and secondary containment devices and all containment areas shall be sufficiently impervious to contain any spilled or released material. Berms and secondary containment devices shall be inspected at regular intervals and maintained in good condition."

Operators generally encountered compliance issues when a spill or release occurred at their location and their berms failed to contain the release – indicating to COGCC that they were either insufficiently impervious or poorly maintained. Operators are advised to regularly inspect berms and secondary containment devices to ensure that if a spill or release occurs, it will be safely and effectively contained.

Rule 906 - Spills and Releases

Rule 906 requires operator to report certain spills or releases of E&P Waste or produced fluids. The rule varies depending on spill/release size and whether the spill/release occurred inside or outside of containment. The rule also requires initial and follow-up reporting along with notification to third parties. Operators are advised to closely review Rule 906 in the event of a spill or release to ensure they are complying with the requirements of Rule 906.

Guidance documents regarding spill reporting can be found here:

http://cogccintranet/documents/reg/Forms/instructions/Form_Instructions/eForm19Instructions.pdf

Rule 1003 - Interim Reclamation

Generally speaking, Rule 1003 requires operators to reclaim disturbed areas and pits, that are no longer in use, within 3-6 months. The requirements vary depending on the surface use. Operators are advised to regularly review their oil and gas locations and confirm whether disturbed areas or pits are no longer in use and to reclaim those areas that are no longer in use. It is important to note that compliance with Rule 1003 typically requires ongoing maintenance and monitoring.

Guidance documents regarding reclamation can be found here:

http://cogccintranet/documents/reg/OpGuidance/Reclamation%20Overview_12_8_2016.pdf

http://cogccintranet/documents/reg/OpGuidance/Reclamation%20Technical%20Presentation_12_8_2016.pdf

Permit/Order Violations

The Oil and Gas Conservation Act, specifically § 34-60-121, authorizes enforcement staff to bring an enforcement action where an operator violates a rule, order, or permit. In 2016, multiple operators violated enforcement orders. These operators had numerous compliance issues, and were generally unable to comply with COGCC requirements, so these cases are not particularly instructive for most operators. It is important to note that whether an Order Finding Violation (OFV) or Administrative Order by Consent (AOC), operators must strictly comply with the requirements of an enforcement order and the COGCC treats violations of an enforcement order very seriously.

Other examples of statutory violations, and ones that are more instructive, are failures to comply with permit conditions. Permit conditions are mandatory requirements and failure to comply may result in an enforcement action. Operators generally encountered compliance issues when regulatory and operational units were not closely coordinating regarding permit conditions. Operators are advised to closely review all permit conditions and ensure that they have procedures in place to ensure that they are complied with.

In an effort to ensure "Greater Compliance Through Clarity" COGCC staff is always available to answer compliance questions. If the many guidance documents posted on the COGCC's website do not address a question you may have, please contact Peter Gowen, Jeremy Ferrin, David Beckstrom or Steven Mah.