



Mission Change Rulemaking Series Fact Sheet

SB 19-181 changed the mission of the Colorado Oil and Gas Conservation Commission (COGCC) from “fostering” to “regulating” oil and gas development in a manner that protects public health, safety, welfare, the environment and wildlife resources. The COGCC conducted rulemakings to fulfill the mandates of this legislation. On Aug. 24, 2020, the COGCC began Mission Change rulemaking, which includes Alternative Location Analysis, Cumulative Impacts as well as Mission Change, for the COGCC’s 200-600 Series and then, the 800, 900 and 1200 Series Rules. The rulemaking hearings have been overseen by the new professional commission seated July 1, 2020, by Gov. Jared Polis. On Nov. 23, the Commission took a final unanimous formal vote to adopt these rules which will be effective Jan. 15, 2021.

These rulemakings are in addition to three other completed rulemakings required by SB 19-181: Administrative Law Judges, Flowlines and Wellbore Integrity. The three remaining rulemaking topics -- Financial Assurance, Fees and Worker Certification -- will be completed in 2021.

Commitment to transparency and public engagement

The COGCC is committed to conduct all rulemakings in a manner that increases access, transparency, public participation, engagement and information regarding oil and gas operations in the state of Colorado. The Commission took written and oral public comment, heard testimony from over 90 parties and conducted over 181 hours of discussion and deliberation during the rulemaking hearings. All hearings were conducted virtually due to the ongoing pandemic.

Implementing rulemaking that reflects the spirit and mandates of SB 19-181

All of the key issues identified in SB 19-181 were addressed, including the relationship between the Commission and local governments, cumulative impacts, alternative location analysis, setbacks, flaring and venting, wildlife protections, and reorganizing, modernizing, and streamlining the rules by updating language and grouping together topics to ensure easier accessibility and better clarity. The significant changes and outcomes from this rulemaking include:

Public Participation:

- Create broader access to the COGCC.
- Expand standing to allow citizens the ability to participate in hearings, permits applications, and requests from operators for a variance or waiver from a rule.

Increased Protections for Public Health, Safety, Welfare, Wildlife and Environmental Resources:

- Incentivize comprehensive landscape-level planning through the permitting process.
- Create a solidified one permit process rather than the current multi-step process.

- Transfer the permitting authority from administrative approvals by the Commission’s Staff to the Commissioners through a public hearing, which increases transparency and public participation.
- Establish new regulatory relationships with local governments, which includes COGCC involvement early on in local permitting and siting processes and includes recognition that operators must comply with the most protective regulations.
- Ensure environmental justice for disproportionately impacted communities and allow them to be involved in the permit process. These are Colorado’s first ever rules to be adopted that incorporate environmental justice as a consideration in facility siting.
- Create a first-of-kind Cumulative Impacts data gathering system with an annual reporting requirement to the public for transparency.
- Establish protective setbacks for oil and gas development from residential building units, schools, and high priority habitat, including riparian areas.
- End routine flaring and venting.
- Increase protections for wildlife management.
- Increased protections for water resources.

Mission Change Rule Series Change Highlights include:

200 Series “General Provisions”

1. Adopt new regulation governing transfer of permits to ensure that COGCC has all the information it needs to effectively regulate facilities that are transferred between operators
2. Improve due process for operators and take advantage of the new, full-time Commission by allowing the Director to order immediate actions to protect public health, safety, welfare, the environment, and wildlife resources with an expedited appeal to the Commission.
3. Streamline and modernize processes for handling confidential information.

300 Series “Permitting Process”

1. Define the relationship between local and state governments:
 - COGCC and local government collaboration on permitting process.
 - Commission ensures that oil and gas permits are only approved if they are protective of public health, safety, welfare, the environment, and wildlife resources.
2. Consideration of disproportionately impacted communities.
 - For the first time, a state agency will incorporate environmental justice as a consideration for the siting of a facility into its rules.
 - Adopt procedures to ensure that residents of disproportionately impacted communities can fully participate in the Commission’s permitting process
3. Commitment to gathering data and partnering with CDPHE on cumulative impacts, including greenhouse gases.
4. Adopt a new alternative location analysis process to allow the Commission, operators, and local governments to determine how best to avoid impacts to a wide range of resources.
5. Incentivize and encourage Comprehensive Area Plans as a tool for planning and minimizing adverse cumulative impacts.

400 Series “Operations & Reporting”

1. Expand rules to protect public water systems that rely on shallow, vulnerable groundwater sources to help protect Colorado’s water resources:
 - Oil and gas operators will consult directly with public water system providers for each permit application that could potentially impact a public water supply.
2. Adopt statewide prohibition on certain chemical additives in hydraulic fracturing fluid that pose unique risks to public health and the environment if accidentally spilled or released.
3. Clarify the timing and recipients of notices about oil and gas operations, including local governments, surface owners and the general public.
4. Noise & Nuisance:
 - Create nuisance (i.e, noise, odors, dust, lighting, etc) standards at the appropriate and protective regulatory protocol during all phases of oil and gas operations.
 - Allow the Director to take action to require the operator to mitigate the issue, to the point even of stopping operations for noise.
 - Adopt new standards for low-frequency noise (vibration).
 - Ensure the Director and Commission have discretion to apply lower noise standards for both high frequency and low frequency noise where necessary.

500 Series “Rules of Practice & Procedure”

1. Expand public access to Commissioners by allowing any impacted person to request a local public hearing to allow people across the state to participate in the process before the COGCC and have direct access to the Commissioners.
2. Expanded the definition of “Standing” which was previously very narrow and differed for each type of hearing, to ensure that all local governments and affected residents have an opportunity to be heard before the Commission.
3. Additionally, expanding public access and information by:
 - Making Pooling brochure available in Spanish
 - Committed to best practices for community engagement
 - Establishing a registry for mineral owners

600 Series “Safety & Facility Operations Regulations”

1. Expands protective setbacks for schools and homes to 2,000 feet. The 2,000 foot setback to buildings except for when protective measures are in place and the Commission approves. This includes 4 “off-ramps”:
 - a. The well location is already within an approved comprehensive drilling plan or comprehensive area plan.
 - b. Specific equipment that has the greatest noise and emissions, including wells, tanks, separation equipment, or compressors are located more than 2,000 ft. from buildings.
 - c. The commission finds after a hearing that companies have taken “substantially equivalent” protections for public health and safety.
 - d. A property owner or tenants sign a special waiver agreeing to have a well pad built closer than 2,000 ft.

2. Improve regulatory standards for worker safety and public safety by requiring operators to develop operations safety management programs, emergency response plans, and adopting first-ever periodic inspection protocols for all oil and gas facilities.

800 Series “Underground Injection for Disposal and Enhanced Recovery Projects Provisions”

- Strengthen protections for groundwater by ensuring that underground disposal of produced fluids is fully protective of usable groundwater, in partnership with the U.S. EPA and the Colorado Water Quality Control Division.
- Adopt Colorado’s first-ever substantive regulatory requirements to prevent induced seismicity associated with underground injection.
- Incentivize underground injection of waste fluids as a best practice for management of exploration and production waste that reduces emissions and other surface impacts of E&P waste management.

900 Series “Environmental Impact Prevention”

1. Adopt best-in-the nation standards to protect public health, mitigate climate change, and prevent the waste of a valuable natural resource by prohibiting routine venting and flaring of natural gas.
 - Permit flaring when conditions at the well are disrupted, during emergencies and with written permission during maintenance, production evaluations at wildcat wells, or as part of an approved gas-capture plan.
 - Other times flaring would be permitted include when necessary to complete a well or when an operator can show it will minimize adverse impacts to public health, safety, welfare, the environment or wildlife resources.
2. Create a new approach to evaluate the cumulative impacts of oil and gas development through the Commission’s innovative CIDER database and other cutting edge research to address greenhouse gas emissions, protect wildlife habitat, and recycle and reuse water.
3. Incentivize reuse and recycling of produced water through improved data collection, advance waste management planning, and tailored standards for storage pits.
4. Improve reporting of spills and releases by clarifying regulatory standards, broadening notifications, and requiring prompt cleanup.
5. Ensure Colorado’s groundwater is safe to drink and soil resources support healthy crops and vegetation by modernizing waste management practices and strengthening cleanup standards.

1200 Series “Protection of Wildlife Resources”

1. Require avoidance of Colorado’s most critical habitats through specific habitat protections as well as preparation of an alternative location analysis.
2. Mandate compensatory mitigation requirements as directed by SB 19-181.
3. Expand rules to protect aquatic habitats for both iconic native and economically important aquatic species.
4. Implements EO D019 011 *Conserving Colorado’s Big Game Winter Range and Migration Corridors* through minimizing disturbance in big game winter range and migration corridors.

SB 19-181 Rulemaking Accomplishments:

The COGCC is in the midst of reviewing its rules and procedures to evaluate what changes are required to reflect the new law's requirements. The Commission has adopted three SB 19-181 rulemakings including the 500 Series allowing Administrative Law Judges (August 2019), Flowline rules (November 2019) and Wellbore Integrity rules (June 2020). The volunteer commission adopted these SB 19-181 rulemakings:

500 Series Administrative Law Judge rules enacted, August 2019. Allowed COGCC to use Administrative Law Judges in Hearings. This process increases the efficiency of the COGCC Hearing Unit.

Flowline Rules (1100 Series) adopted in November 2019. Increases protections to the public by:

1. Strengthen the state's oversight of flowlines and operators returning inactive wells to production or injection within Colorado.
2. Create for the first time a map of the actual paths of all flowlines in the state of Colorado, while at the same time balancing transparency with the need for public safety.
3. Ensure flowlines are abandoned in a manner that is least impactful, which balances the varying ways in which abandonment - in place or through removal - creates impacts or risks to public health, safety, welfare, the environment, or wildlife resources.

Wellbore Integrity Rulemaking adopted June 2020. Focuses on protecting Colorado's groundwater from potential contamination from oil and gas activity throughout the lifecycle of oil and gas operations, from development to production to abandonment. Rules provide the nation's strongest protections for groundwater by the following:

1. Health checks, using regular testing and maintenance, throughout the well's lifecycle.
2. Isolate all fluids associated with the well from escaping to protect groundwater.
3. Increase public access and transparency of precautionary measures to protect groundwater near homes and drinking water sources. Other key new protections include provide:
 - Strict protections and detailed subsurface geological reviews for any wells that are proposed to fracture within shallow groundwater formations where the risk of contamination is at its greatest.
 - Increased transparency so local governments, water-well owners and the public can readily learn about what precautions are being taken to protect groundwater near their homes and drinking water sources.

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