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Colorado Oil & Gas Conservation Commission Unanimously Adopts SB 19-181 New Mission Change Rules, Alternative Location Analysis and Cumulative Impacts
Commission concludes four months of comprehensive oil and gas rulemakings that increase protections for Colorado's public health, safety, welfare, wildlife and environmental resources

DENVER - The Colorado Oil and Gas Conservation Commission (COGCC) announced today it has completed the rulemaking hearings addressing Mission Change, Alternative Location Analysis, Cumulative Impacts, and Compensatory Mitigation for Wildlife, as required by SB 19-181. The hearings began Aug. 24, addressed the 200-600 Series and then the 800,900 and 1200 Series started in October. The rulemakings were required to implement the change to the COGCC's mission from "fostering" to "regulating" oil and gas development in a manner that protects public health, safety, welfare, the environment and wildlife resources.

"Today is a watershed moment in Colorado's oversight of oil and gas development in our State. As a state legislator, I sponsored HB 2007-1298, which first set out to find a balance between protecting our wildlife and oil and gas development. Now as Director of Colorado's Department of Natural Resources, the new nation leading rules passed today, finds the right safeguards for wildlife, our air, water and communities while providing certainty and a streamlined process for oil and gas operators," said Dan Gibbs, Executive Director, DNR. "I am extremely proud of the work of the COGCC staff and both the interim volunteer commission and our new professional commission, who have conducted a collaborative and transparent rulemaking to implement SB 19-181."

Many key issues identified in SB 19-181 were addressed in a thorough examination of the COGCC's Rules, including defining the new relationships between state and local government, addressing cumulative impacts by developing a new program with the Colorado Department of Public Health and Environment, establishing setbacks for location siting purposes, establishing a streamlined permitting process that incentivizes landscape level planning, a reorganization of the rules using updated language to ensure accessibility, enacting a prohibition on routine flaring or venting, and increased protections for wildlife.

The rulemaking hearings have been overseen by the new professional Commission seated July 1, 2020 by Gov. Jared Polis, which was also a SB 19-181 requirement.

“The COGCC is committed to conducting rulemakings in a manner that reflects how oil and gas will now be regulated with increased access, transparency, public participation, engagement and information,” said COGCC Chair Jeff Robbins. “Over the past months, the Commission took public comment on all the rules, heard testimony from over 90 parties and diverse stakeholders, conducted hundreds of hours of discussion and deliberation during the rulemaking hearings. The rules not only meet the spirit and mandates of SB 19-181, but they were done so with a unanimous vote and largely with consensus from all sides.”

The Commission gave direction to Staff for this rulemaking to reflect the spirit and mandates of SB 19-18. 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.

“I am so proud of the COGCC Staff and our stakeholders for our work to deliver meaningful, impactful and implementable rule revisions to address Mission Change, Alternative Location Analysis, Cumulative Impacts, and wildlife in a spirit mandated by SB 19-181,” said COGCC Director Julie Murphy. “COGCC Staff has had the dual job of their day-to-day duties, along with supporting the rulemaking efforts. The key to our success is linked to our strong relationships and ability to collaborate with all our partners during the rulemaking process to

craft the best solutions. Now Staff will begin the critical work of implementing these rules and we will continue to work collaboratively as this new chapter begins.”

As of January 15, 2021, the professional Commission will assume responsibility for reviewing and deciding oil and gas permitting and SB 19-181’s objective criteria permitting will cease. The COGCC is in the midst of reviewing its rules and procedures to evaluate what changes are required to reflect SB 19-181’s requirements.

Prior to today’s action by the full time current Commission, the interim volunteer commission called for by SB 19-181 adopted these additional required 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.

The Commission will take up additional rulemakings at future Commission hearings, including Financial Assurances around oil and gas development, Worker Safety, and the enactment of Permit Fees in 2021. To learn more about participating, upcoming hearings and the rulemaking schedule, visit the COGCC website: cogcc.state.co.us.

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