

Colorado Moves to Prohibit Routine Venting/Flaring at Gas and Oil Wells

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Colorado regulators are considering new rules that would prohibit companies from routinely venting and flaring natural gas from wells, a trend that observers say could soon sweep up other states considering similar rules.

The Colorado Oil and Gas Conservation Commission (COGCC) on November 5, gave preliminary approval to the rules, with a final vote scheduled for November 20. The commission also approved a rule requiring companies to assess the cumulative impacts of oil and gas development locally and more broadly. The rules would take effect in early 2021.

The rules under consideration would establish a regulatory precedent for other states that venting and flaring is not permitted, and also “creates a regulatory presumption that venting and flaring are pernicious,” Dan Grossman, senior director, state advocacy for the Environmental Defense Fund (EDF) said at the COGCC’s November 5 virtual meeting.

The draft rules would be among the strongest in the nation, Grossman said, with perhaps the exception of Alaska. Several states are looking at modifying regulations on flaring, including New Mexico, while North Dakota has banned the venting of natural gas and requires vented casinghead gas to be burned through a flare, with the estimated volumes flared reported to the state, he said.

“This rule, if adopted by the commission, will send a message to all the states considering implementation and set a bar at a good high level that will allow us to address this issue going forward,” Grossman said.

Oil and gas operators in Colorado currently waste nearly \$12 million worth of gas each year through venting and flaring, EDF said in a November 5 news release, which the group said results in hazardous air and climate pollution. Reducing needless flaring is critical for curbing waste, reducing pollution and protecting public health, the group said. It also cited recent aerial surveys showing that methane releases are “an outsized source of climate-warming methane emissions.”

In its “800/900/1200 Mission Change Rulemaking,” the commission revised its rules to align with requirements in Senate Bill 19-181, passed in 2019. The proposal fulfills the commission’s statutory obligation to undertake three specific rulemakings: one to implement changes to the agency’s mission, one to evaluate and address potential cumulative impacts, and one to adopt an alternative location analysis process, according to commission documents.

The commission chose to address all three topics in the same rulemaking process, and the 800/900/1200 Mission Change Rulemaking occurred simultaneously with a separate but closely related Mission Change Rulemaking, in which the Commission revised its 200 through 600 Series Rules and related 100 Series definitions.

SB 19-181 required the commission to regulate oil and gas operations in a reasonable manner to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources, according to COGCC documents. It also required regulators to protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations.

Regulatory attorney Chris Colclasure, representing the Colorado Oil and Gas Association (COGA), said the rules were devised through a collaborative process that improved the regulations and that the group accepts the commission's proposed definition of venting and flaring with some additional clarification. He challenged a staff definition of flaring as "waste," saying that venting or flaring is legally not waste, where it is necessary to produce oil and gas and that flaring is sometimes used to avoid venting or improve safety. He also recommended other changes to the language and technical corrections.

Speaking at an industry conference November 10, COGA President and CEO Dan Haley noted that the rules have not been made final and the industry is working with the COGCC to try and show some of the practical implications a final rule could have. Producers in Colorado do not vent or flare methane on a large level like some other states, Haley said, referring to 2019 figures below 1% of natural gas production in the state.

Venting and flaring is not an issue in Colorado and COGA believes the state can address methane emission concerns without new rules, Haley said at the 2020 Natural Gas Forum. The proposal is part of a "massive rulemaking" to carry out some of the regulatory changes stemming from Senate Bill 19-181, which COGA and others opposed, Haley said during a remote presentation at the event, held in San Antonio and online.

Haley said opposition to the oil and gas industry has grown in Colorado, as it has in other states, and the industry needs to improve its messaging on the benefits of natural gas, with jobs, tax benefits and revenue supporting hospitals, parks and public education. Colorado ranks fifth among states in oil production and sixth in natural gas production, with a \$31 billion economic impact, compared with legalized marijuana that has a \$1 billion impact, he said.

Oil and gas production has taken place in Colorado since 1860, and as housing developments encroach upon upstream facilities, “there are people who want to put us out of business,” Haley said. He encouraged industry members to know the opponents and understand that they will stop at nothing to eliminate fossil fuels. “Begin building your coalitions now,” by finding political allies and business groups who share similar views, he said.

With only four active drilling rigs operating in Colorado at the moment, there are more rulemakings pending in Denver about oil and gas production than there are producing facilities, Haley told the Natural Gas Forum, which is put together by Access Intelligence.

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