

Firm Represents Environmental Advocates in Landmark Rulemaking Leading to Significant Reductions in Pollution from Oil and Gas Operations in Colorado

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On Friday, December 17, 2021, Colorado's Air Quality Control Commission unanimously adopted nation-leading rules to control climate and ozone pollution from oil and gas production in the state. Kaplan Kirsch & Rockwell represented Environmental Defense Fund and Colorado Communities for Climate Action in the historic proceeding.

"The direct regulations adopted by the Commission are ground-breaking and will serve as a model for other states and the federal government" says Tom Bloomfield a partner at Kaplan Kirsch & Rockwell. "These rules build upon our work for EDF from 2014, which led to Colorado adopting the first-in-the-nation statewide methane control regulations."

"Colorado communities are on the front lines when it comes to harm from leaking methane and ongoing air pollution from oil and gas production, and the direct regulation portion of the rules are a significant step forward in identifying and fixing leaks and venting that have gone unchecked for too long," says Bob Randall, a partner at Kaplan Kirsch & Rockwell.

Colorado's new rules require a suite of protective and effective direct regulations, including increasing inspections with cameras designed to detect leaking equipment and the prohibition of venting during well maintenance activities.

With respect to inspections, all existing well sites that emit 2 tons per year of volatile organic compounds ("VOCs") or more will be required to conduct instrument inspections at least four times a year, with increased inspection frequencies (six or twelve times a year) for such well production sites and compressor stations in proximity to occupied areas or in Disproportionately Impacted Communities. Moreover, the rules close a significant gap in the existing rules: operators will now be required to inspect all smaller oil and gas sites in Colorado at least annually, many of which previously had no annual instrument inspection requirement. A large number of these smaller sites are also subject to enhanced inspection frequencies based on their proximity to buildings or being located in a disproportionately impacted community. On behalf of our clients, Kaplan Kirsch & Rockwell, along with other stakeholders, was a key player in developing and securing adoption of this program.

The Commission also adopted a suite of other regulations to reduce climate and local air pollution from oil and gas production, including, critically, requirements which will reduce venting emissions from maintenance activities. This element of the rule is also groundbreaking, as Colorado is the first state to adopt rules (and the second state to propose such rules after New Mexico) prohibiting venting during a well maintenance activities, which is a significant source of climate and other pollution.

In addition, the Commission set the stage for important future progress to require replacement of existing methane-emitting pneumatic controllers with non-emitting controllers. Pneumatic controllers are one of the largest sources of pollution from the oil and gas production sector. The Commission included language in the final regulation directing the Air Pollution Control Division, the state agency responsible for developing emission reduction regulations, to consider additional replacement requirements for pneumatic controllers in an anticipated future rulemaking. Firm client Environmental Defense Fund proposed this language and was successful in arguing for its adoption.

The adoption of these rules maintains Colorado's leadership in reducing emissions from the oil and gas sector and in protecting our most vulnerable communities from local air pollution. The emission



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reductions achieved through the adopted rules also help Colorado make progress towards meeting the requirements to reduce greenhouse gas emissions from the oil and gas sector established by the Colorado legislature earlier this year in House Bill 21-1266.