

Colorado Protections for Wildlife and Climate

In November 2020, the Colorado Oil and Gas Conservation Commission (COGCC) completed a yearlong process to implement landmark legislation last week, enacting rules containing significant new protections for wildlife and the climate. Kaplan Kirsch & Rockwell represented five parties in this rulemaking – Backcountry Hunters & Anglers, Colorado Trout Unlimited, Colorado Wildlife Federation, and National Wildlife Federation on wildlife protection, and Colorado Communities for Climate Action on methane emissions.

The new rules were necessary to implement Senate Bill 181 passed in 2019, which changed the COGCC’s mission from “fostering” oil and gas development to regulating the oil and gas industry in a manner that protects public health, safety, welfare, including the environment and wildlife.

The Commissioners enacted significant new protections for waterways in Colorado, requiring operators to avoid drilling in over 6 million acres adjacent to priority streams and calling for enhanced spill-prevention measures anytime drilling occurs within 1,000 of those streams. They also protected an additional 11 million acres of big game habitat, requiring drilling companies to consult with state wildlife officials and to ensure that unavoidable wildlife impacts are addressed through compensatory mitigation projects.

In addition, the Commission enacted rules to prohibit routine venting and flaring of natural gas. Companies will now only be able to flare gas when conditions at the well are disrupted (and even then for no longer than 24 hours), during emergencies, and in certain, limited situations with written permission as part of an approved gas-capture plan or during maintenance. By requiring operators to instead capture excess gas in almost all circumstances, the Commission will reduce a significant source of both climate and local air pollution in Colorado.

The rulemaking process began in late 2019 and was delayed due to the coronavirus pandemic as the Commission shifted to planning a virtual hearing. The rulemaking hearing involved the participation of over 100 parties, the presentation of dozens of witnesses, and the submittal of extensive pleadings advocating for and against various proposals. All told, the hearing spanned nearly 200 hours of presentations, witness testimony, and deliberations, conducted entirely over Zoom.

This is the second major rulemaking to implement SB 19-181. In November 2019, Kaplan Kirsch & Rockwell represented a citizen in pursuing and, ultimately, securing flowline-safety regulations which will require oil and gas companies to identify the location of existing below-ground flowlines, provide for public mapping of flowline locations statewide, and ensure that flowlines no longer needed will be removed.

For more information on this rulemaking or on Colorado’s oversight of the oil and gas industry, please contact Bob Randall, Sarah Keane, or Sarah Judkins.

For press coverage regarding these rules, please see:

- “A pandemic and new commission later, Colorado oil and gas officials OK sweeping changes to regulations,” Denver Post (Nov. 24, 2020).
- “Colorado oil and gas regulators finalize new rules for the drilling industry — and themselves,” Colorado Sun (Nov. 23, 2020).
- “Colorado panel Oks sweeping changes to oil, gas regulations,” Grand Junction Daily Sentinel (Nov. 24, 2020).



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- “‘Flaring’ at oil and gas wells to be curtailed as Colorado regulators adopt some of nation’s strictest rules,” Colorado Sun (Nov. 4, 2020).
- “Historic oil, gas rule revamp adopted by Colorado regulators,” Bloomberg Law (Nov. 23, 2020).
- “Colorado passes stiff new oil and gas rules prioritizing public health, environment for the 1st time,” 9News (Nov. 23, 2020).
- “COGCC wildlife series rulemaking concludes with substantial protections,” Colorado Wildlife Federation (Nov. 23, 2020).
- “New rules could better protect Colorado’s wildlife from energy development,” Pew Trusts (Oct. 21, 2020).

Related Practices

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