

Air & Waste Management Association

Rocky Mountain States Section
Colorado 2019 Legislative Session Summary
Christy Woodward

[@ColoradoOilGas](#) | [#COGA2019](#)

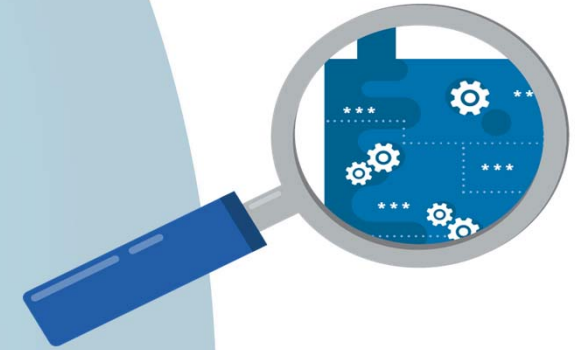
COLORADO
OIL & GAS
ASSOCIATION

Colorado Oil & Gas Association (COGA)

- Founded 1984
- Nationally Recognized, Colorado Focus
- 300 Member Companies
 - Major and Independent Oil & Gas Companies
 - Service Companies
 - Mid-Stream Companies
 - Support Services

Overview

- SB 19-181 – Protect Public Welfare Oil and Gas Operations
- HB 19-1261 – Climate Action Plan to Reduce Pollution
- SB19-96 – Collect Long-Term Climate Change Data
- SB 19-236 – Continuation of the Public Utility Commission (CO PHMSA)



SB 181: Sweeping and Comprehensive

- Local Control
 - Subjective Rules
 - Setbacks
- Establishes Fees, Fines, Financial Assurance
- Statutory Pooling
- Health, Safety, Environment
- Oil & Gas Conservation Act
 - To Regulate & Protect
- COGCC
 - Removes Expertise – Engineering & Geology
 - Potential Permitting Moratoria
 - Potential for 12 Rulemakings



An Act

SENATE BILL 19-181

BY SENATOR(S) Fenberg and Foote, Court, Gonzales, Lee, Moreno, Story, Williams A., Winter;
also REPRESENTATIVE(S) Becker and Caraveo, Arndt, Benavidez, Bird, Buckner, Duran, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Valdez A., Weissman.

CONCERNING ADDITIONAL PUBLIC WELFARE PROTECTIONS REGARDING THE CONDUCT OF OIL AND GAS OPERATIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SB 181: Section by Section

Section 3 - Air Quality

- Section 3:
 - Promulgate Emission Control Regulations to:

“Minimize emissions of methane and other hydrocarbons, volatile organic compounds, and oxides of nitrogen from oil and natural gas exploration and production facilities and natural gas facilities in the processing, gathering and boosting, storage, and transmission segments of the natural gas supply chain.”

Specifically –

- (A) A requirement that leak detection and repair inspections occur at all well production facilities on, at a minimum, a semiannual basis or that an alternative approved instrument monitoring method is in place pursuant to existing rules;
- (B) A requirement that owners and operators of oil and gas transmission pipelines and compressor stations must inspect and maintain equipment and pipelines on a regular basis

SB 181: Air Quality Cont...

- (A) A requirement that oil and natural gas operators must install and operate continuous methane emissions monitors at facilities with large emissions potential, at multi-well facilities, and at facilities in close proximity to occupied dwellings; and
- (B) A requirement to reduce emissions from pneumatic devices, the Commission shall consider requiring oil and gas operators, under appropriate circumstances, to use pneumatic devices that do not vent natural gas.

(II) The Commission may, by rule, phase in the requirement to comply with this subsection (10)(b) on the bases of production capability, type and age of oil and gas facility, and commercial availability of continuous monitoring equipment. If the Commission phases in the requirement to comply with this subsection (10)(b), it shall increase the required frequency of inspections at facilities that are subject to the phase-in until the facilities achieve continuous emission monitoring.

(c) Notwithstanding the grant of authority to the oil and gas conservation commission in Article 60 of Title 34, including specifically Section 34-60-105 (L), the Commission may regulate air pollution from oil and gas facilities listed in subsection (1)(a) of this section, including during pre-production activities, drilling and completion.

SB 181: Section by Section

Section 4 – Local Authority

- Local Governments – may regulate the surface impacts of oil and gas operations in a reasonable manner
- Local Governments may inspect, impose fines for leaks, spills and emissions
- Impose fees to cover the reasonably foreseeable direct and indirect costs of permitting and regulation as well as any monitoring and inspection program necessary to address impacts.



SB 181: Section by Section

Section 6 – Legislative Declaration

- Replaces the term “foster” with “regulate”.

“regulate the development and production of the natural resources of oil and gas in the state of Colorado in a manner that protects public health, safety, and welfare, including protection of the environment and wildlife resources.”



SB 181: Section by Section

Section 7 – Definitions

Changes the definition of “minimize adverse impacts”.

Previously said:

“wherever reasonably practicable avoid adverse impacts from oil and gas operations on wildlife resources [and] minimize the extent and severity of those impacts that cannot be avoided . . . [taking] into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts to wildlife resources.”

Now Says:

“to the extent necessary and reasonable to protect public health, safety and welfare, the environment, and wildlife resources, to: (a) avoid adverse impacts from oil and gas operations and (b) minimize and mitigate the extent and severity of those impacts that cannot be avoided.”

Further, Nonproduction of resource is no longer defined as “waste” if it results in protection of public health, safety and welfare, the environment, or wildlife resources.

SB 181: Section by Section

Section 8 – Restructuring the Commission

- Current 9 member is remade: drops engineering and geology positions from three oil and gas seats to one expert with oil and gas experience.
- Remade commission consists of:
 - An oil and gas industry expert
 - A local government official
 - An environmental protection expert
 - A wildlife protection expert
 - An individual with technical expertise relevant to the issues considered by the Commission or a soil conservation or reclamation expert
 - An individual actively engaged in agricultural production or a royalty owner
 - A public health expert
 - The Executive Director of the DNR – ex-officio voting member
 - The Executive Director of the CDPHE – ex-officio voting member



SB 181: Section by Section

Section 9 – Professional Commission

- Professional Commission will be established by the earlier of July 1, 2020 or the completion date of four rulemakings: (PHSWE, Flowlines, Alternative Siting Analysis, Cumulative Impacts)
- Professional commission decreases from nine (9) to five (5) and consists of:
 - Oil and gas
 - Planning/land use
 - Environmental protection, wildlife protection, reclamation
 - Professional experience to contribute to the Commission's decisions
 - Public health
 - Directors of DNR and CDPHE are ex-officio, non-voting members

SB 181: Section by Section

Section 10 – Director of the Commission

- Requires the director to hire at least one deputy director but allows for two
- Requires the director, at the request of a local government or operator, to appoint a technical review board to analyze disputed items between a local community and an operator
- Economic effects are not permitted to be part of the preliminary or final determination of the TRB
- Determinations are not legally binding, but can be used to support an argument for or against development

SB 181: Section by Section

Section 12 – Powers of the Commission

- Director has power to delay permits based on Objective Criteria
- Clarifies Commission will 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.
- Appoints Administrative Law Judges (ALJs)
- Requires new rules as they pertain to fees
- Adopt rules for alternative location analysis
- Requires a consult with CDPHE on cumulative impacts



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SB 181: Section by Section

Section 12 – Powers of the Commission

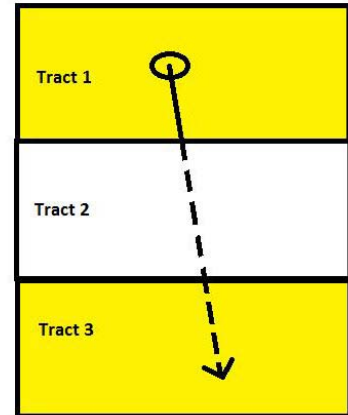
- Requires rulemaking on financial assurance for inactive wells and account tied to the well during ownership transfer
- Requires rulemaking to ensure wellbore integrity
- Requires modification to new flowline rules around public disclosure of flowline information
- Requires rules for certification of workers related to confined space, handling of hazardous materials and welding



SB 181: Section by Section

Section 14 – Pooling

- Establishes a pooling threshold percentage of 45 percent of the drilling unit and increases royalty rates for nonconsenting owners to 13% for gas and 16% for oil
- Excludes all un-locatable interests from threshold calculation
- Prohibits an operator from using the surface owned by a nonconsenting owner without permission from that nonconsenting owner



SB 181: Section by Section

Section 16 – Wildlife



Regarding permit-specific conditions for wildlife habitat protection, surface owner consent is required in those cases where the condition directly impacts the surface owner's property or use of that property. Consent is not required for permit specific conditions that do not directly impact the affected surface owner's property or use of that property, such as off-site compensatory mitigation.

SB 181: Year 1

- Four Rulemakings must happen from May 1, 2019 to June 1, 2020 when new professional commission is appointed:
 - Protection of Public Health, Safety, Welfare, Environment and Wildlife
 - Cumulative Impacts
 - Alternative Siting Analysis – Local Government Disposition
 - Flowline Rulemaking (to account for publicly available pipeline information)



Regulatory
Tracker

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SB 181: Year 1 Rulemakings

- One year temporary commission established May 2019 (9 members – one with oil and gas expertise)
 - 500-series – 6/17/19
 - Flowlines – Fall 2019
 - Application Fees – Fall 2019
 - Alternative Site Assessment – Fall 2019
 - Local Govt. Provisions – Fall 2019
 - Technical Review Board – Fall 2019
 - Cumulative Impacts – Spring 2020
 - PHSWE – Late Spring 2020

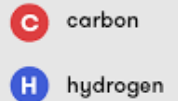
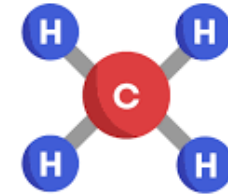


SB 181: Year 2 Rulemakings

- Full Time Professional Commission (July 2020) – Five members one with oil and gas expertise
 - Financial Assurance – Summer 2020
 - Wellbore Integrity – Summer 2020
 - Worker Certification – Summer 2020
 - Incorporate CDPHE Rules as necessary – TBD (see next slide)
 - Some in Fall 2019 some in Spring 2020



HB 19-1261

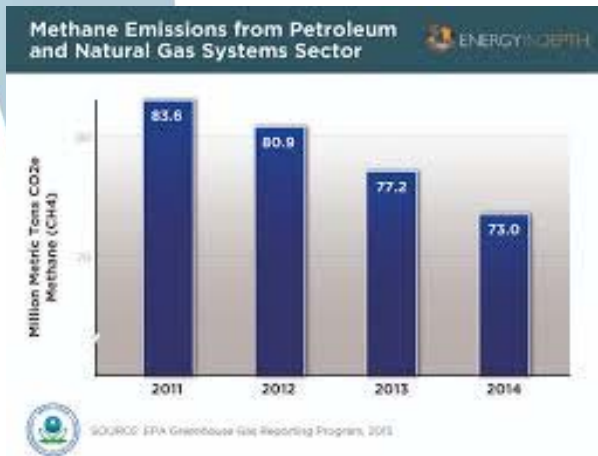


- HB 19-1261 – Climate Action Plan to Reduce Pollution
 - At least a 26 percent reduction of 2005 levels by 2025
 - At least a 50 percent reduction of 2005 levels by 2030
 - At least a 90 percent reduction of 2005 levels by 2050
- Air Quality Control Commission required to adopt rules and regulations for statewide greenhouse gas emission reductions (similar to SB 19-96)
- Not only applicable to the Oil and Gas sector, but must take into account what voluntary measures are being employed by local communities and the public sector
- Requires ongoing tracking of emission sources and include strategies designed to achieve reductions
- Focus on communities which are economically dependent on GHG emissions production

SB 19-96

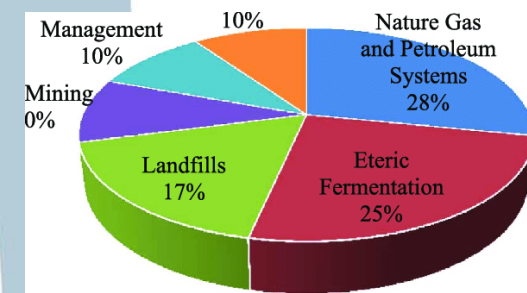
SB19-96 – Collect Long-Term Climate Change Data

- AQCC To promulgate rules by June 1, 2020, requiring greenhouse gas-emitting entities to monitor and publicly report their emissions
- By July 1, 2020 – AQ must publish notice of proposed rulemaking to implement measures to cost-effectively allow the state to meet its GHG emission reduction goals – ties into and supports HB19-1261
- Add on to EPA Green House Gas Reporting Rules



SB 19-96

- Update on GHG emissions no less than every 2 years (by sector) – must include a forecast for 2025 and every 5 years thereafter through 2045
- Recalculation of 2005 emissions is also required to act as a baseline
- All data will be publicly available on CDPHE website
- Sectors include - Electric power generation, transportation, residential/commercial/industrial fuel use, natural gas and oil systems, agriculture, coal mining, abandoned mines, industrial processes, and waste management activities
 - CDPHE currently uses EPA systems for these inventories, but must now develop their own to fill in any “gaps” in the EPA’s reporting



SB 19-236

- SB 19-236 – Continuation of the Public Utility Commission (CO PHMSA)
 - Continues the PUC through September 1, 2026, but also requires Carbon Reduction Goals and Clean Energy Planning (CO₂ for electricity generation by large utilities) – energy impact bonds and to specify the rights of retail electric customers related to customer-site generated renewable resources.
- For utilities serving more than 500,000 customers – bill requires:
 - 80 percent reduction in Carbon Dioxide emission levels compared to 2005 levels by 2030
 - 100 percent reduction in CO₂ emission levels by 2050 and thereafter, if practicable, technically and economically feasible and in the public interest



Questions?

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