



COGCC Mission Change Rulemaking – 300 Series Rules

The 300 Series of the COGCC Rules govern the permitting process for oil and gas activities within the state.

Primary Issue Areas:

- COGCC Permit Approval and Denial Process
- Deference to Local Governments
- Consultation with State Agencies
- Public Notice of Permit Applications
- Permit Criteria

COGCC Permit Approval and Denial Process

In the current draft, the Rules state that the Commission *may* deny a permit application if it does not meet the requirements of the rules, or if the Commission feels that the application is not protective of public health, safety, and welfare, the environment, and wildlife resources.

The rules must be changed to *require* denial if an application is not protective of public health, safety, and welfare. There should be no discretion to allow dangerous permits to be approved.

Deference to Local Governments

The current draft rules have deference to local governments backwards. SB19-181 clearly allows a local government to be more protective than the State, but not less. That means that the COGCC must defer to any local government that has denied an application to protect health and safety. Any local government approval must be subject to rigorous review under the Commissioner's rules to ensure that the application will not have any adverse impacts on public health, safety, and welfare, the environment, and wildlife resources.

Consultation with State Agencies

The draft rules allow far too much discretion when it comes to consultation between the COGCC and other relevant state agencies like the Colorado Department of Public Health and Environment and Colorado Parks and Wildlife. Every application will pose some level of threat to public health and safety and the environment, and without the necessary consultation we cannot be confident that these potential impacts will be avoided and mitigated to the greatest extent possible.

We need to make sure that the require this consultation for every application.

Public Notice of Permit Applications

This section of the rules also governs how the public is informed about oil and gas applications. A core directive from SB19-181 was to ensure public participation throughout this process. The current draft rules do not rise to that level.

Historically, the burden has been on the impacted public to find out about potential applications that might affect them. This has required daily trips to the Commission's website, or constant contact with Local Government Designees and other officials to try to glean as much information as possible. To adopt the new mission mandated by SB19-181, the new rules must shift that burden. It must be the responsibility of the applicant to provide information about the potential impacts of their proposed development to all those who stand to be impacted.

The Commission should work to develop some mechanism to actively provide all relevant information to all potentially impacted people. An informed public is absolutely essential to the regulatory process.

The proposed public comment period is 26 days in the current draft. This is far too short to allow for informed comments, and must be extended.

Permit Criteria

The 300 series rules hold all the requirements for information the operators must supply with their application. While the list of required plans, maps, and drawings is extensive in the draft rules, there is still room for improvement.

In order to conduct a meaningful and effective cumulative impacts assessment, and to properly just the potential adverse impacts associated with any application, the Commission must have all the relevant background data for the location. The new rules must include requirements for gathering and producing all relevant background information, including noise, odor, air and water quality, habitat, wildlife and biological resources, and environmental justice indicators.

Without this background information, the Commission will be unable to make informed approval or denial decisions.

In addition to background information, the Commission must also require more accurate impact modeling from applicants. At the application stage, the Commission must be given an accurate model of the potential odors, noise, air and water emissions, habitat and wildlife impacts, and potential increased burdens on disproportionately impacted communities. This information must also inform the required cumulative impacts assessment, to give the Commission a more accurate picture of all impacts associated with all existing and proposed development in a region.