



DRAFT 300 SERIES AND 500 SERIES RULES

DATE: JANUARY 22, 2020

With the signing of SB 19-181, the COGCC received a new mandate to regulate, rather than foster, oil and gas development. This “Mission Change” requires a substantive overhaul of the Commission’s rules. On November 1st the COGCC published its Mission Change Whitepaper, which provided an outline and discussion of some, but not all, of the larger concept rule changes under consideration.

After the publication of the Whitepaper, COGCC senior staff continued meeting with stakeholders to receive feedback on staff’s proposed large concept rule changes and major reforms. This stakeholder feedback has aided staff in the preparation of the proposed draft 300 Series Permitting Rules, and 500 Series Rules of Practice and Procedure. The 300 and 500 Series Rules released today are only the first set of revised Commission Rules to be released over the next few weeks.

In the Mission Change rulemaking, staff is revising the Commission’s Rules so that regulated subjects and activities are contained within the same Rule Series. For example, staff is proposing that the 300 Series address only permitting rules and processes. Staff is proposing to consolidate the current 300 Series rules concerning well design and other operations into the 400 Series. Because this is such a significant restructuring of the current Commission Rules, staff is releasing today only “clean” copies of its proposed 300 and 500 Series Rules.

In the next few weeks, staff will release proposed drafts of the 200, 400, 600, 800 and 900 Series Rules, and a comprehensive cumulative impacts process rule. Staff is continuing to evaluate the 1000 and 1200 Series Rules. Rulemakings on Financial Assurance (700 Series Rules), Worker Certification and Application Fees will occur after July 1, 2020. A redline version of the 200, 300, 400, 500, 600, 800 and 900 Series will be released in the next few weeks.

Below are some of the highlights of the proposed rule revisions to the 300 and 500 Series Rules.

300 Series

- Implements a one permit application process that ensures oil and gas operations are conducted only if all requirements of the Commission’s Rules are met, and the operations reasonably protect and minimize adverse impacts to public health, safety, welfare, the environment and wildlife resources, and protect

against adverse environmental impacts on any air, water, soil, or biological resource.

- Provides the public and local governments with a greater understanding of the proposed oil and gas development, and the opportunity to meaningfully participate in Commission proceedings on the proposed development.
- Transfers many of the substantive permitting decisions to the Professional Commission, which allows for greater oversight of the permitting process; opens the permitting process to hearings before the Commission when warranted; and promotes greater transparency in the permitting process.
- Implements an Alternative Location Analysis procedure for proposed Oil and Gas Locations within 2,000 feet of 50 or more Building Units.
- Changes the current Comprehensive Drilling Plan process to a Comprehensive Area Plan process that can facilitate considering cumulative impacts in a broad geographic area.

500 Series

- Expands who has standing to participate in hearings before the Commission.
- Reforms the current “protest” process to allow affected persons to petition to participate in hearings on applications pending before the Commission.
- Revises the Commission’s responsible party rules to reflect the specific language and intent of § 34-60-124(8)(a), C.R.S.
- Removes the constraints imposed on how members of the public may provide comments to the Commission.
- Implements a neutral regulatory framework so that no party – industry, the public or government entity – has an advantage in any Commission proceeding.

We believe that these proposed revisions to the 500 Series reflect SB 19-181’s mandate to regulate oil and gas development. Since the 500 Series Rules addresses practice before the Commission, we expect the Professional Commission will have the opportunity to further refine these practices and procedures after it is seated on July 1, 2020. Moreover, the Professional Commission will have the opportunity to look further at the COGCC’s enforcement process to consider whether additional reforms, beyond those proposed here, are necessary.

Finally, some of staff’s proposed revisions include removing rules that are better addressed through guidance. For instance, in the 500 Series staff proposes removing the current Commission Rules on Ex Parte Communications. Looking forward to a Professional Commission, it will be necessary to reformulate how professional commissioners communicate with stakeholders appearing before the Commission. This process can and should be addressed through guidance so as to allow the Commissioners and stakeholders the ability to work through a sensible communications process that ensures transparency and fairness in Commission proceedings.

Mission Change Rulemaking

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Mission Change Rulemaking Dates

The proposed dates for the Mission Change rulemaking are:

- April 29, 2020
- May 6, 7 and 8, 2020
- May 13, 14 and 15, 2020
- May 27, 28 and 29, 2020

Next Steps

Staff invites stakeholders to provide comment on the proposed 300 and 500 Series through the Mission Change Comment Portal

https://cogcc.state.co.us/sb19181_calendar.html#/rulemaking_mission_change.

Staff expects to file notice of rulemaking on the Mission Change Rules no later than March 1, 2020.