

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO**

IN THE MATTER OF CHANGES TO THE
RULES OF PRACTICE AND PROCEDURE
OF THE OIL & GAS CONSERVATION
COMMISSION OF THE STATE OF
COLORADO

CAUSE NO. 1R

DOCKET NO. 171200767

TYPE: RULEMAKING

AFFILIATED LOCAL GOVERNMENTS' PREHEARING STATEMENT

Boulder County, the City of Lafayette, and the City of Longmont, participating as the Affiliated Local Governments (the "ALG"), by and through each party's respective undersigned counsel, hereby files its Prehearing Statement in this matter.

The ALG supports the effort to revise and improve pipeline rules demonstrated in the draft flowline rules issued October 31, 2017 (the "Draft Rules"). Recent tragic pipeline explosions and spills in Firestone and across the front range highlight the critical importance of pipeline regulations that provide the strictest protections for people and the environment. The comments provided below and the alternative rule language attached seek to strengthen such protections in the Draft Rules further.

The ALG requests 30 minutes to present evidence and argument at the rulemaking hearing. The three local governments constituting the ALG have voluntarily aggregated their party status and are submitting a single pre-hearing statement. Nonetheless, they should not be penalized for such voluntary coordination and request time sufficient to address their individual and combined positions.

I. Pipeline mapping

- a. At the September 11, 2017, COGCC meeting, Commissioners Boigon, Overturf and Ager all remarked on the importance of pipeline mapping to prevent disasters such as occurred in Firestone and, more recently, the fatal pipeline explosion near Galeton. A comprehensive, accurate map showing the locations of all pipelines of any type in the state is critical for those involved in land use planning, including local governments. Such a system should be required and hosted by the COGCC and the data should be supplied by operators.
- b. Despite repeated calls for a mapping plan, including originally from the governor and more recently directly from COGCC commissioners, the Draft Rules contain no such requirement.
- c. Enhancement of the 811 or One Call system is not and cannot be a substitute for a comprehensive mapping system. The 811 system (i) does not maintain a database for the locations of all pipelines; (ii) is not accessible to local government planners and the Draft Rules do not provide for such access; (iii) cannot provide a pipeline "locate" for a broad area as would be required for proper land use planning; and (iii) has been deemed inadequate by federal regulators for its lack of enforcement mechanisms. Therefore, the Draft Rules should contain a pipeline mapping system. Alternative rule language to do so is attached.

- II. Local government discretion on abandonment methods
 - a. The Draft Rules allow the operator to choose whether to abandon flowlines in place or to remove them. There are significant land use considerations with this option, and important potential health, safety, welfare and environmental impacts from one option or the other. For example, removal of a stretch of pipeline from a sensitive wetland area might cause more damage than abandoning it in place, while abandonment in place in an area close to current or future residential or associated use would pose greater risks. Only the local government with knowledge of the affected area and land use expertise and authority should make that determination.
 - b. Alternative rule language making the option of abandonment in place or by removal at the sole discretion of the relevant local government is attached.
- III. Flowline setbacks
 - a. Following the Firestone disaster, the public is rightly concerned with the siting of flowlines. With their traditional land use authority and knowledge of the needs and area character in their jurisdictions, local governments should determine appropriate flowline setbacks from surface and subsurface features.
 - b. Alternative rule language to require compliance with any local government flowline setback regulations is attached.
- IV. Use of best available and most recent technologies and standards
 - a. The Draft Rules do not require, and in some places do not allow for, use of the most recent and best available technologies. By specifying the standards for design and installation, pressure test requirements, and tank gauging requirements to preclude revised and improved editions, the COGCC freezes technology at a particular point, when it is clear that the industry is making rapid advances in all types of technology. Rather, the rules should be forward-looking and seek to apply the best, newest and most protective technologies available. Commissioner Overturf emphasized this recommendation for this flowline rulemaking at the September 11, 2017, COGCC meeting, which the ALG strongly supports.
 - b. The ALG urges the COGCC to apply all specified standards in their most current revision, and to apply the principle of requiring the most recent and effective technology available in every segment of the rules. For example, the ALG supports the standards and methodologies proposed for integrity management and leak detection proposed by Broomfield.
- V. Inventory of Domestic Taps
 - a. On September 11, Commissioner Ager specifically recommended that the Draft Rules require operators to take an inventory of all existing domestic taps for the purposes of improved monitoring and safety. The Draft Rules require registration of new domestic taps going forward but do not require the inventory requested by Commissioner Ager. Alternative rule language is attached.
- VI. Containment and Clean-up of Pipeline Spills and Releases
 - a. Also at the September 11 COGCC meeting, Commissioner Ager specifically asked that staff “make sure” the Draft Rules address containment and cleanup of all materials released during any leak or other incident involving pipelines. No such provision is contained in the Draft Rules. Alternative rule language is attached.

VII. Areas of Agreement with Other Parties

In the interest of efficiency, the ALG agrees with and supports the proposals put forth by its sister local governments in their pre-hearing statements on the following subjects:

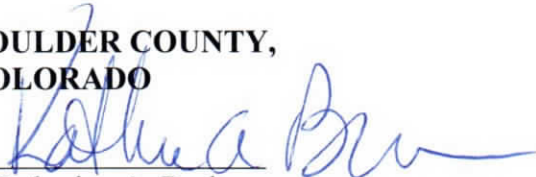
- a. Integrity Management sections proposed by Broomfield
- b. Leak testing sections proposed by Broomfield
- c. All references to notifications to and submission of reports to Local Governments proposed by Broomfield and Thornton
- d. Insurance provisions proposed by Broomfield
- e. Local control "savings" provision proposed by NWCCOG

Signature page follows

DATED this 4th day of December, 2017.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on December 4, 2017, I caused the above Affiliated Local Governments' Prehearing Statement to be electronically filed and served as follows:

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A handwritten signature in blue ink, appearing to be 'Rachel Nelson', written over a horizontal line.

Rachel Nelson 12/4/2017

ATTACHMENT A

ALTERNATIVE RULE LANGUAGE

I. MAPPING

1101. Registration and Mapping Requirements

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d. **Flowline Mapping.** The COGCC shall design and create a comprehensive, searchable mapping database of all flowlines and crude oil transfer lines and gathering lines in the state to be active within 240 days after the effective date of this subsection. No later than 60 days after the effective date of this subsection, the COGCC shall issue operator guidance to define the nature and format of pipeline mapping data to be provided by operators under this section to populate the database. No more than 180 days after the COGCC issuance of operator guidance, all operators owning or operating any flowlines in Colorado must provide the required data to the COGCC reflecting the location, route, size and purpose of all flowlines in their ownership or control.

II. ABANDONMENT

1104. ABANDONMENT

...

b. For abandonment, operators must permanently remove a flowline or crude oil transfer line from service by physically separating it from all sources of fluids or pressure. At the discretion of the local government having jurisdiction over the site of the pipeline, the local government may require the operator to use one of the following abandonment methods and comply with one of the following:

(1) Abandonment in place....

III. SETBACKS

1102. FLOWLINE AND CRUDE OIL TRANSFER LINE INSTALLATION, OPERATIONS MAINTENANCE, REPAIR AND RECLAMATION

...

c. Installation

...

(11) Flowlines and crude oil transfer lines must be installed in compliance with applicable local governmental setback requirements with respect to any surface or subsurface features.

IV. INVENTORY OF DOMESTIC TAPS

1101. Registration Requirements

b. Domestic Tap Registration

- (1) No later than 180 days after the effective date of this subsection, all operators operating any domestic taps in Colorado must provide to the COGCC data reflecting the location of all domestic taps on pipelines in their ownership or control. Upon subsequent installation or discovery, operators must report to the Director the GPS location for the point of flowline connection and the address of the point of delivery of all domestic taps connected to an operator's flowline.

V. SPILL CONTAINMENT/CLEANUP

906. SPILLS AND RELEASES

- a. **General.** This Rule 906, including all of its subsections, applies to any spill/release of E&P waste or produced fluids, including those from any pipeline or flowline or any type owned or controlled by an Operator. Operators must, immediately upon discovery, control and contain all spills/releases of E&P waste or produced fluids to protect the environment, public health, safety, and welfare, and wildlife resources . . .