



COGCC Update: Penalty & Enforcement Rulemaking

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Over the past several years, the Colorado Oil and Gas Conservation Commission (“COGCC”) has been posturing itself to undergo substantive rulemaking to address its enforcement and penalty program. On May 8, 2013, Governor Hickenlooper, by executive order, directed the COGCC to undertake a review of its enforcement program, penalty structure, and imposition of civil penalties, which resulted in the COGCC providing its Enforcement and Penalty Policy Review on December 10, 2013. Following the review, and acting pursuant to amendments to Section 34-60-121, C.R.S., revised by the passage of House Bill 14-1356 (“Penalty Bill”), the COGCC has undertaken stakeholder meetings to propose rules and adopt guidance regarding its enforcement and penalty assessment procedure.

The stated directive for this rulemaking is to deter noncompliance of COGCC rules and regulations and encourage operators who fall out of compliance to quickly and cooperatively gain compliance, which will protect public health, safety and welfare, including the environment and wildlife resources. The Penalty Bill provides for the elimination of the existing \$10,000 penalty cap for a rule violation, increases the daily penalty amount from \$1,000 to \$15,000 for each violation, and calls the COGCC to assess a penalty for each day the evidence demonstrates a violation occurred. The Penalty Bill also provides that an operator’s violation of a standing COGCC order or COGCC-approved Administrative Order by Consent constitutes a separate violation which may result in additional penalty assessment.

Various stakeholder groups are represented and, in most cases, filed prehearing statements and comments along with alternate proposed rules. These documents are linked on the COGCC website at: http://cogcc.state.co.us/RR_Docs_New/Enforcement_and_Penalty/Rulemaking.htm

On October 15, 2014, the COGCC’s staff issued a Notice of Rulemaking Hearing concerning the Enforcement and Penalty Rules, which placed the proposed rule amendments before the COGCC for deliberation on December 15-16, 2014. At the conclusion of the December 16, 2014 hearing, the Commission closed the record for the rulemaking, but deferred deliberation as to the proposed rule changes. The Commission will reconvene for purposes of deliberating on adoption of the proposed rules prior to the beginning of next year’s legislative session (January 7, 2015), but has yet to announce a specific date for such meeting.

For further information on the Enforcement and Penalty Rulemaking, please contact [Mike Wozniak](#) or [Jill Fulcher](#).

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