

Welcome

Thank you for attending today's webinar. Under current circumstances, a significant portion of the workforce is working remotely; the higher utilization of the internet and servers impacts bandwidth. We appreciate your patience and understanding should any unexpected technical issues arise. As always, it is our intent to give you the information you need as seamlessly as possible.

Tips for best experience:

- Turn off unused or extra internet-connected devices. (TV streaming services, smart devices, Alexa devices, etc.)
- Use a wired connection, if possible. (Ethernet connection from router to computer.)
- Do not run additional applications during presentation. (Outlook, Internet browsers...)
- Mute your audio unless you are presenting.

The presentation will begin shortly.

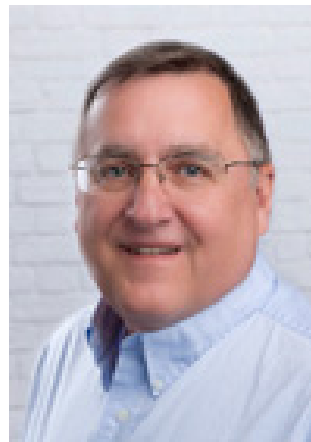


Emerging Regulation of GHGs in Colorado Energy Development

Speakers



Paul Seby
*Shareholder
Denver*
Greenberg Traurig, LLP



Jay Christopher
Senior Air Professional
Trihydro Corp.



John Pfeffer
Senior Air Professional
Trihydro Corp.

Agenda

- How the legislative mandates create challenging practical implications and ambiguities for Colorado businesses?
- How can Colorado businesses, in particular oil and gas operations, address these ambiguities?
- What should companies be aware of and focus on to address these challenges successfully coming out of a pandemic?
- What can you do and key takeaways



2019 Legislative Developments in Colorado

- Three new legislative enactments in 2019,
 - House Bill 19-1261;
 - Senate Bill 19-181; and
 - Senate Bill 19-096.
- Gave the Colorado Air Quality Control Commission (“AQCC”) and the Colorado Oil and Gas Conservation Commission (“COGCC”) extensive new authorities to be developed by regulation.

House Bill 19-1261

- The AQCC was given broad authority to promulgate rules designed to meet Colorado Legislature’s GHG reduction goals:
 - 26% reduction by 2025;
 - 50% reduction by 2030, and at least;
 - 90% reduction by 2050.
- Includes, but not limited to a wide variety of “industries” in Colorado including coal mines, power plants, oil and gas development, steel production, cement production, and the transportation sector.

Senate Bill 19-096

- Establishes new GHG emissions reporting requirements
- Directs the AQCC to:
 - By June 1, 2020 promulgate rules requiring GHG emitting entities to publicly report and monitor GHG emissions
 - Promulgate rules directing the Air Pollution Control Division (“APCD”) to update the statewide emissions inventory on an annual basis;
 - By July 1, 2020 publish a notice of proposed rulemaking to implement measures to meet the state’s GHG emission reduction goals.

Senate Bill 19-181

- Establishes requirements for measuring and reporting GHG emissions from the oil and gas industry.
- Change to COGCC statutory directive to regulate oil and gas development to protect public safety, health, and welfare and minimize adverse impacts.
 - Prior statutory directive was to balance development with safety and health.
- Directs the AQCC to promulgate regulations minimizing emissions of methane, VOCs, and NOx.

Senate Bill 19-181

- Grants additional regulatory powers to local governments over:
 - Land use;
 - The location and siting of oil and gas facilities and oil and gas locations;
 - Impacts to public facilities and services;
 - Water quality and source, noise, vibration, odor, light, dust, air emissions and air quality, land disturbance, reclamation procedures, cultural resources, emergency preparedness and coordination with first responders, security, and traffic and transportation impacts;
 - Financial securities, indemnification, and insurance as appropriate to ensure compliance with the regulations of the local government; and
 - All other nuisance-type effects of oil and gas development.

2019 Regulatory Developments

- AQCC and COGCC each identified a full slate of rulemakings to implement their new statutory authority.
- AQCC has refused to postpone 2020 rulemakings during COVID-19 crisis despite requests from affected/interested parties.
 - Remote rulemaking processes and hearings planned indefinitely.
 - Effect on stakeholder participation still to be determined - but will likely limit substantive participation.
 - Consistent with the Colorado APA, Colorado Air Act, and AQCC's own procedural rules?

AQCC Rulemakings

- “Oil and Gas Part 1” – Sweeping further modifications to Regulation Numbers 3 and 7 finalized December of 2019.
 - Increased significant record keeping requirements,
 - Increased emission control thresholds and requirements;
 - Moved up control compliance deadlines;
 - Reduced LDAR timelines;
 - Annual emissions inventory reports from operators starting June 30, 2021

AQCC 2019 Rulemaking

- Legal Challenge: Lawsuit challenging the validity of Oil and Gas Part 1 filed by Weld County on March 12, 2020.
 - Asserts “Oil and Gas Part 1” was promulgated in violation of the procedural and substantive requirements of the Colorado APA and the Colorado Air Act including:
 - The AQCC failed to consider credible evidence from Weld County that the rules were not economically or environmentally justified;
 - The APCD’s economic analyses used to support the rules were statutorily flawed;
 - The AQCC adopted a local government coalitions “alternative proposal” submitted outside of the statutory timeframe for bringing such proposals.

Upcoming AQCC Rulemakings

- May 2020 Rulemaking:
 - Targets:
 - New Source Performance Standards in Regulation Number 6
 - MACT Requirements in Regulation Number 8;
 - GHG emissions reporting requirements established in a new Regulation Number 22;
 - Proposed regulations released 2/20/2020.
 - Alternate Proposals due to AQCC by 4/10/2020
 - APCD revised “redline” of Reg 22 in Prehearing Statement

SB 19-096 GHG Emission Inventory

- APCD published a draft GHG inventory report on July 5, 2019 – took comments through August 2019.
- Used EPA’s State Inventory Tool (“SIT”).
- SIT relies on activity data, emission factors, and global warming potential factors to generate an estimate of historic emissions from the base year (1990) through 2015, and to project emissions through 2030.
- Will be used as a basis for 2020 (and future) Colorado rulemaking efforts.

Overview of Colorado's Proposed Regulation No. 22

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 22

Colorado Greenhouse Gas Reporting and Emission Reduction Requirements

5 CCR 1001-26

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Outline of Regulation

- PART A Greenhouse Gas Reporting
- PART B Greenhouse Gas Emission Reduction Requirements
- PART C [Severability](#)
- [PART D](#) Statement of Basis, Specific Statutory Authority, and Purpose

Pursuant to Colorado Revised Statutes Section 24-4-103 (12.5), materials incorporated by reference are available for public inspection during normal business hours, or copies may be obtained at a reasonable cost from the Air Quality Control Commission (the Commission), 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. The material incorporated by reference is also available through the United States Government Printing Office, online at www.gpo.gov/fdsys. Materials incorporated by reference are those editions in existence as of the date indicated and do not include any later amendments.

Unless otherwise indicated, any incorporation by reference of provisions of Title 40 of the Code of Federal Regulations (CFR) are to the edition effective as of July 1, 2019.

PART A Greenhouse Gas Reporting

- I. General Provisions
 - I.A. This regulation establishes mandatory greenhouse gas (GHG) monitoring, recordkeeping and reporting requirements for owners and operators of certain facilities that directly emit GHGs, and retail or wholesale electric service providers. ~~Additionally, certain suppliers will be required to report GHGs based upon the quantity that would be emitted from combustion or use of the products supplied.~~
 - I.B. ~~Entities subject to this regulation that are also subject to the reporting requirements of the~~

Key Definitions

- **Reportable GHG Chemicals**

Carbon Dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), as well as hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF₆), and nitrogen trifluoride (NF₃) (note that GHGs under Reg 3 do not include NF₃)

- **CO₂e** (in metric tons per year)

Determined using EPA's 40 CFR Part 98 global warming potentials (GWPs).

- **Designated Representative** – individual selected by owner/operator who can certify on behalf of the Responsible Official.



Key Definitions

- “**Supplier**” – a producer in Colorado or an importer into Colorado conducting activities covered by 40 CFR Part 98 Subparts LL (coal-based liquid fuels), MM (petroleum products), NN (natural gas and natural gas liquids), OO (greenhouse gases), PP (CO₂), or QQ (fluorinated GHGs in pre-charged equipment or closed-cell foams).

Applicable Industries

Section III.A. __	Category	Reporting Cutoff	40 CFR Part 98 Method(s)
1	Electric service provider or electric utility	No de minimis	C, D, or DD
2	Local natural gas distribution company	No de minimis	W or NN
3	Any supplier engaged in activities covered by Part 98 Subparts LL, MM, or NN	No de minimis	LL, MM, or NN
4	Industrial solid waste landfills	No de minimis	TT
5	Industrial wastewater treatment	No de minimis	II
6	Active underground coal mines	No de minimis	FF

Applicable Industries

Section III.A._	Category	Reporting Cutoff	40 CFR Part 98 Method(s)
7	Any facility not previously listed or otherwise required to report under 40 CFR Part 98 (excluding oil and gas/natural gas transmission)	As required in Part 98	As applicable
8	Voluntary - Municipal solid waste landfills	Emissions < 25,000 metric tons CO ₂ e	HH
9	Voluntary – Domestic wastewater treatment plants	-	US Community Protocol for Accounting and Reporting of GHG Emissions (2019)
10	Voluntary – Any agricultural operation	-	Protocol acceptable to APCD
11	Excluded – Research and development activities	-	-

Oil and Natural Gas Reporting

PART A, SECTION III.C



Oil and Natural Gas Operations and Equipment at or upstream of a natural gas processing plant

(defined in Regulation No. 7, Part D, Section V.C)



Natural Gas Transmission and Storage

(defined in Regulation No. 7, Part D, Section IV.A)

GHG Reporting Timing

PART A, SECTION IV.A

- GHG emission inventory reports due March 31st for the prior calendar year's inventory.
- If reporting was required pursuant to 40 CFR Part 98 for CY2020, then that report must be provided to APCD by March 31, 2021.
- For categories that were not otherwise required to report under Part 98 in CY2020, the initial report will be due on March 31, 2022 covering CY2021.

GHG Report – Electric Service Providers/Utilities

PART A, SECTION IV.C

Electric service providers and electric utilities must also provide the following by June 30th each year (starting in 2022) for the prior calendar year:

- Data verifying GHG emissions associated with imported and exported electricity.
- Data verifying compliance with the Public Utility Commission approved GHG reduction plans.



GHG Report Content

PART A, SECTION IV.B

Report each individual GHG compound (metric tons per year) and aggregated CO₂e emissions.

- AIRS ID, facility name, entity name, physical street address or latitude/longitude of facility centroid in decimal degrees (to at least four digits to the right of the decimal)
- NAICS code applicable to the facility (primary and any additional NAICS codes as applicable)
- Year/months covered by the report
- Date of report submission
- Certification statement signed by Responsible Official or their Designated Representative

GHG Report Error Corrections

PART A, SECTION IV.D

- Substantive error means error that “impacts the quality of the GHG emissions reported” or that prevents the data from being validated.
- If “substantive errors” are discovered by the submitter in previously submitted GHG reports, APCD must be notified within 5 business days of discovery, and a revised report must be submitted within 45 days of discovery.
- If APCD identifies “substantive errors,” the submitter must correct, revise, and resubmit the report within 45 days of APCD’s notification.
- Extensions to the 45-day period may be requested by submitting details justifying the request to APCD.

GHG Recordkeeping Requirements

PART A, SECTION V.A & B

- Recordkeeping requirements (to be provided to the APCD on request):
 - All records of supporting documentation used to prepare the annual report including:
 - All units, operations, process, and activities for which GHG emissions were calculated;
 - Operating data, fuel usage, process information;
 - Methodologies and calculations used; and
 - Any records required by 40 CFR Part 98.
 - 5 year retention requirement.

Regulation 7 – Oil and Natural Gas Sectors

PART D, SECTIONS IV AND V



Section IV – Natural Gas Transmission and Storage



Section V – Oil and Natural Gas Operations

Reg 7 – Natural Gas Transmission and Storage - Timing

PART D, SECTION IV. B. and D.

Date	Requirement
April 1, 2020	APCD established Steering Committee and Committee Charter
Sept 30, 2020	APCD publish inventory protocol and other guidance
Dec 31, 2020	Segment owners/operators develop company-specific BMP Plans
Jan 1, 2021	Implement company-specific BMP Plans Collect emissions inventory data in accordance with inventory protocol
May 1, 2022	Select third-party contractor to collect and aggregate company reports
June 30, 2022 (annually)	Submit company-wide reports to third-party contractor
Aug 15, 2022 (annually)	Contractor provides aggregated segment-wide reports to Steering Committee

Reg 7 – Natural Gas Transmission and Storage

PART D, SECTION IV

- **Recordkeeping:** 5 years
- **Responsible Official Certification:**
 - June 30, 2021 (annually)
 - BMP plan was developed and reviewed
 - Report submitted to 3rd-party contractor
 - Beginning June 30, 2022 (annually)
 - BMPs were implemented
 - Non-conformance with BMP plan and any modifications to plan
 - Use of alternative emissions reduction approaches not specified in the plan



Reg 7 – Oil and Natural Gas Operations

Part D, Section V

- On or before June 30, 2021 oil and gas operators must submit an annual report on actual emissions which includes:
 - Company name/address/contact/reporting representative;
 - Monthly actual VOCs, NOx, CO, methane, ethane for May – September;
 - Annual actual VOCs, NOx, CO, methane, ethane;
 - Actual emissions above sorted by source category or equipment type per facility;
 - Include emissions data, emission factors, assumptions and calculations used; and
 - List of activities and equipment for which emissions are reported.
- Affirmative duty to correct reports within the previous 2 years if errors are discovered.

Reg 7 – Oil and Natural Gas Operations

Part D, Section V

AIRS ID of Individual Activities and Equipment: (Begin maintaining info July 1, 2020)

Abnormal events	Boilers Process Heaters	Hydrocarbon liquid storage tanks	Separators (all types)
Acid gas removal units	Compressor leaks/vents Centrifugal and Recip	Maintenance and Safety	Stationary Combustion Turbines
Associated gas venting and flaring	Drilling mud and mud pits	Natural Gas Dehydration	Stationary IC Engines (Compression and Spark Ignition)
Blowdowns: Pipeline venting Compressors Scrubbers Strainers Pig launchers Pig receivers Emergency SDs Equipment vol >50cf	Flares and enclosed combustors	Nat Gas Pneumatic Controllers	Temporary completion and well workover equipment (e.g. tanks)
	Flowback	Non-road IC Engines	Thermal Oxidizing Units
	Fugitive emissions	Pipeline segments	Well completions
	HC liquid loadout	Process Heaters	Well workovers
	Produced water tanks	Produced water loadout	Wellhead casinghead and bradenhead

Potential Disconnects Between Current Regulation 7 and Upcoming Regulation 22

- Regulation 7, Part D, Sections IV and V list VOCs, NO_x, carbon monoxide, methane, and ethane as pollutants subject to reporting. **Therefore, for GHG reporting, the only commonly listed compound is methane.**
- APCD staff indicates they are aware of this discrepancy and intends to resolve this by creating an expanded Regulation 7 emission inventory reporting form that includes at a minimum CO₂.
- Is that sufficient? Does Regulation 7 need to be modified to add any additional GHG compounds?
 - How will APCD implement that change? Does APCD have adequate statutory authority?

Potential Disconnects Between Current Regulation 7 and Upcoming Regulation 22

Calculations

- Will APCD accept Part 98 factors for applicable GHGs on the Regulation 7 reporting form? Is that desirable?
- Will there be any standardization of emission factors, or might operators present different assumptions and methods? Does non-standardized reporting matter?

Report Timing

- Regulation 7 and Regulation 22 reporting dates are different (June 30 v. March 31). Are there any implications to industry regarding different submittal dates?



Q & A



GT GreenbergTraurig

Thank you



Paul Seby
Shareholder, Denver
Greenberg Traurig, LLP

sebyp@gtlaw.com
303.572.6584



Jay Christopher
Senior Air Professional
Trihydro Corp.

jchristopher@trihydro.com
303.815.9583



John Pfeffer
Senior Air Professional
Trihydro Corp.

jpfeffer@trihydro.com
303.679.3143