REGULATORY ANALYSIS PURSUANT TO §24-4-103(4.5), C.R.S.
New Rules and Amendments to Current Rules of the Colorado Oil and Gas Conservation Commission, 2 CCR 404-1

Cause No. 1R - Docket No. 1412-RM-02
Enforcement and Penalty Rulemaking

On December 15-16, 2014, the Colorado Oil and Gas Conservation Commission ("Commission") will consider new rules and amendments ("Enforcement and Penalty Rules") to the Commission Rules of Practice and Procedure, 2 CCR 404-1 (2014). The Notice of Public Rulemaking Hearing was published in the Colorado Register on October 25, 2014.

The Commission is promulgating the Enforcement and Penalty Rules to implement amendments to Section 34-60-121, C.R.S. (2014) ("Colorado Oil and Gas Conservation Act" or "Act"), enacted by the passage of HB 14-1356 ("Penalty Bill"), and Executive Order D 2013-004 ("Executive Order"), which directed the Commission to review, propose rules, and adopt guidance regarding its enforcement and penalty assessment procedure. The Enforcement and Penalty Rules are also promulgated to make certain Commission rules more consistent, effective, and efficient pursuant to Executive Order D 2012-002. The Enforcement and Penalty Rules are intended to deter noncompliance and encourage quick, cooperative corrective action. This will protect public health, safety, and welfare, including the environment and wildlife resources, as well as prevent the waste of oil and gas resources.

In the Enforcement and Penalty Rulemaking, the Commission will consider additions and amendments to the 100-Series Rules (Definitions for "Bradenhead", "Container", "Regulatory Compliance Program", "Suspended Operations Wells", "Tank", "Temporarily Abandoned Well", and "Waiting on Completion Well") and Rules 205, 303, 308A, 309, 311, 316A, 316B, 317, 318A, 319, 321, 325, 326, 330, 506, 507, 521, 522, 523, 603, 710, 901, 904, 907, 909, and 910. The draft rules are attached to the Notice of Public Rulemaking Hearing as Appendix A to the Notice of Rulemaking Hearing filed on October 7, 2014.

On October 31, 2014, the Colorado Petroleum Association filed a timely request for a regulatory analysis of the proposed rules in the Enforcement and Penalty Rulemaking, pursuant to Section 103(4.5) of the State Administrative Procedures Act, §24-4-103(4.5), C.R.S.

PURPOSE OF THE ENFORCEMENT AND PENALTY RULEMAKING

The Enforcement and Penalty Rules implement the statutory changes to Section 34-60-121, C.R.S., through the Penalty Bill, respond to Executive Order D-2013-004, and incorporate certain recommendations of the *Enforcement and Penalty Policy*

Review under Executive Order No. D 2013-004 ("*Enforcement and Penalty Policy Review")*. An additional purpose of the Rulemaking is to clarify specific requirements of some Commission rules.

Penalty Bill

The Enforcement and Penalty Rules implement the Penalty Bill, which the General Assembly passed during the 2014 legislative session. The Penalty Bill is codified at Section 34-60-121(1) and (7), C.R.S. (2014), and took effect on June 6, 2014.

The Penalty Bill amended Subsection (1) to explicitly state two purposes of the Commission's enforcement and penalty authority: deter violations and encourage prompt compliance. §34-60-121(e), C.R.S. To help achieve this purpose, the amendments eliminate the existing $10,000 penalty cap for a violation and increase the daily penalty amount from $1,000 to $15,000 for each violation. §34-60-121(1)(a), C.R.S. As before the amendment, the Act requires the Commission to promulgate rules that establish a penalty schedule appropriate to the nature of the violation and provide for the consideration of any aggravating or mitigating circumstances. §34-60-121(1)(c)(I), C.R.S.

The Legislature also directed the Commission to assess a penalty for each day that the evidence demonstrates a violation continued. §34-60-121(e), C.R.S. This direction included the following presumptions for calculating the days of violation:

- A minor violation begins on the day an operator should have submitted a report or started the corrective action and ends when the operator submits the report or starts the corrective action;
- All other violations begin when the operator discovered or should have discovered the violation and ends when the operator starts the corrective action; and
- The days of violation does not include any period where the operator engages in good faith negotiation with the Commission and prompt, effective, and prudent response to the violation. §34-60-121(1)(c)(I), C.R.S.

Amended Subsection (7) requires the Commission to hold a hearing if an operator's alleged conduct was grossly negligent or knowing and willful and caused an egregious violation or demonstrates a pattern of violations. §34-60-121(7)(a), C.R.S. If the Commission finds a violation after one of these types of hearings, it can now issue an order prohibiting the operator from receiving new permits, suspending the operator's Certification of Clearance, or both. If the operator later comes into compliance, the Commission can vacate its order. §34-60-121(7)(b), C.R.S.

Executive Order D 2013-004

Executive Order D 2013-004, signed on May 8, 2013, directed the Commission to review its enforcement program, penalty structure, and imposition of penalties. Similar to language passed by the General Assembly in the Penalty Bill, the Executive Order instructed the Commission to "reevaluate its enforcement philosophy and approach and strive to structure fines and penalties to ensure that operators comply with rules and respond promptly and effectively to any impacts from such violations."

As required by Executive Order D 2013-004, the Commission reviewed its enforcement and penalty assessment program and, on December 10, 2013, submitted the *Enforcement and Penalty Policy Review* to the Governor's Office. This *Enforcement and Penalty Policy Review* proposed the following changes to Rules 522 & 523:

1) Establish criteria by rule to decide the degree of actual or threatened adverse impact to public health or the environment resulting from a violation;

2) Reduce the emphasis in current rules to rely upon informal procedures to resolve Notices of Alleged Violations;

3) Require a full hearing before the Commission to resolve an alleged pattern of violations;

4) Revise the Commission's Penalty Schedule (assuming a statutory change to the allowable maximum daily penalty was made) and specify aggravating and mitigating factors to ensure penalties are appropriate to the nature of a violation;

5) Reduce the time period in which a Complainant must object to (i) a decision by the Director to decline to issue a Notice of Alleged Violation and (ii) an Administrative Order by Consent; and

6) Conform existing Commission rules to any changes made to the Act.

REGULATORY ANALYSIS

Pursuant to Section 24-4-103(4.5), C.R.S., a regulatory analysis must contain:

1) A description of the classes of persons who will be affected by the proposed rule, including the benefits and costs to those persons;

2) A description of the probable quantitative and qualitative impact on the affected classes of persons;

3) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

4) A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction;

5) A determination of whether there are less costly methods or less intrusive methods for achieving the rule's purpose; and

6) A description of any alternative methods of achieving the rule's purpose that were considered by the agency and rejected.

Analysis of each of the required elements, including the quantification of the data to the extent practicable and consideration of short-term and long-term consequences, are provided below.

To mirror the Statement of Basis and Purpose, this Regulatory Analysis is separated into two sections: Rules 522 & 523 ("Proposed Rules 522 & 523") and all other rule changes ("All Other Proposed Rules").

Regulatory Analysis of Proposed Rules 522 & 523

The Enforcement and Penalty Rules substantially revise Rule 522 to describe the Commission's enforcement process and Rule 523 to describe the Commission's penalty calculation procedures. The Penalty Bill, Executive Order D 2013-004, and the Commission's *Enforcement and Penalty Policy Review* called for important changes to the existing enforcement procedures and penalty structure. In addition, the Commission used the factors set forth in Executive Order 2012-002 to clarify the language of the Rules.

Subpart (a) of Rule 522 was revised to establish how the Commission can identify alleged violations. Subpart (b) was clarified to describe a Complainant's rights and responsibilities, as well as current Commission practice. Subpart (c) was revised to better describe specific circumstances under which the Director has discretion to resolve alleged violations without seeking penalties. The Commission developed the procedure now codified in Subpart (c) in late 2013 during a LEAN Process review of its enforcement procedures. The LEAN process proposed many changes to improve the efficiency and effectiveness of the enforcement program. Subpart (d) describes the procedure to initiate an enforcement action for an alleged violation for which the Commission is seeking penalties. Subpart (e) was added to describe the process by which enforcement actions seeking penalties can be resolved. Subpart (f) was added to Rule 522 to conform to the Penalty Bill amendments regarding failure to comply with a Commission order. Subpart (g) harmonizes the regulatory language with the Act regarding the Commission's issuance of cease and desist orders.

Subpart (a) of Rule 523 provides a general overview of the Commission's penalty assessment procedure. The Commission created a new Subpart (b) to explain how the duration of a violation is calculated. The four paragraphs in Subpart (c) establish a step-by-step procedure for the Commission to follow when assessing a penalty: first, determine the base penalty for the violation; second, determine the daily penalty amount by increasing the base amount if the violation caused actual or threatened adverse impacts to public health, safety, and welfare, including the environment and wildlife resources; third, adjust the penalty per violation for aggravating or mitigating factors; and fourth, adjust the daily penalty amount for violations of long duration, if appropriate. Subpart (d) was added to Rule 523 to implement the Penalty Bill by requiring the Director to apply for an OFV hearing if the Director determines an operator has engaged in a pattern of violations or acted with gross negligence or knowing and willful conduct and the actions caused an egregious violation. A variation of Subpart (e) "Voluntary Disclosure" formerly existed as Subpart (b) to the Rule, but because it was rarely used, the Commission revised the provision to increase the opportunities for its use.

I. Affected classes of persons, including the classes that will bear the costs and that will benefit from Proposed Rules 522 & 523.

Proposed Rules 522 & 523 will affect three classes of persons: oil and gas operators, Commission staff, and the citizens of Colorado (which may include Complainants).

A. Costs of Proposed Rules 522 & 523 for Operators and COGCC Staff

1. Oil and Gas Operators

Operators who violate the Act or Commission rules, orders or permits will be subject to higher penalties and may be party to more Order Finding Violation ("OFV") hearings under proposed Rules 522 & 523.

The Penalty Bill increased the Commission's authority to impose penalties up to $15,000 per day (from $1,000 per day) for violations and eliminated the maximum total penalty per violation (formerly $10,000 for most violations). §34-60-121(1)(a), C.R.S. Proposed Rule 523.c. assigns base penalties, which are higher than the previous base daily penalties of $500 or $1,000, depending on the severity of the violation and Rule Classifications (Class 1, 2, and 3). Rule 523.b.(3) also incorporates the Act's new directive that the Commission assign a penalty for each day the evidence supports a violation continued and its removal of the maximum total penalty cap. §34-60-121(1)(e), C.R.S. Assuming similar levels of non-compliance, operators that are in violation will now be subject to higher base and total penalties than under the current Rules.

Faced with higher penalties, operators may elect to contest alleged violations more often than in the past. This could increase transaction costs for both operators and the Commission. In addition, enforcement matters that proceed to contested hearings typically take considerably longer to resolve than those that are settled.

Consequently, operators may have unresolved enforcement matters pending against them for longer time periods than in the past.

In addition, pursuant to the Penalty Bill's amendments to the Act, the Director is now required to file an application for OFV hearing for violations where: (1) the Director alleges the operator is responsible for gross negligence or knowing and willful misconduct that resulted in an egregious violation; or (2) the Director alleges the operator has engaged in a pattern of violations. §34-60-121(7), C.R.S. The proposed changes to Rules 522.e.(2)A and 523.d. incorporate this statutory requirement. As a result, operators will no longer have the opportunity to settle enforcement matters that meet the subsection (7) requirements. Instead, they will be compelled to participate in an adjudicatory hearing before the Commission.

2. Commission Staff

As noted, an increase in the penalty amount for a given violation under the amended Act and the new rules may lead to a greater number of contested hearings. Commission staff estimates that each contested case takes between 200 and 500 hours of enforcement staff preparation.

House Bill 14-1356 allocated 0.9 FTE to the Commission specifically to assist with the anticipated increase in enforcement matters and the potential for more contested hearings. In addition, 2,180 hours (1.2 FTE) were added to the Attorney General's Environmental and Natural Resources Section in 2014 to assist the Commission with the growing number of enforcement and other matters.

An increase in the number of contested hearings would increase the demand on technical staff to provide supporting documentation, analyze data, and prepare for hearings. In addition, a significant increase in the number of contested hearings could lead to Commission hearings being extended to two days more frequently, or result in holding more hearings per year.

3. Colorado Citizens

Colorado Citizens encompass many of the classes of persons who can become Complainants under Rule 522.b.(1), including mineral owners, surface owners, and any person who may be directly a and adversely affected or aggrieved as a result of an alleged violation.

The changes to Rule 522 impacting Complainants conform the Rule to current Commission procedures and practices. Although this is the Commission's current practice and interpretation of the Rule, some Complainants may feel as though their rights have been both restricted and expanded with these additions.

Proposed Rule 522.b. may increase the burden for some Complainants by requiring the Complainant to file a Form 18 before receiving the Complainant rights under the Rules. However, the Commission will continue to improve the ease and

communication of the procedures for filing a Form 18. Proposed Rule 522.b.(4) also clarifies current Commission practice that a Complainant may only comment on or object to the alleged violations identified in the complaint or settlement terms of an Administrative Order by Consent ("AOC") arising directly from the complaint. Finally, a Complainant's time period to file an Application for OFV hearing was reduced from 45 to 28 days in order to promote administrative efficiency.

B. Benefits of Proposed Rules 522 & 523 for Operators, COGCC Staff, and Colorado Citizens

1. Oil and Gas Operators

Operators will benefit from the proposed changes due to increased public trust in the oil and gas industry, greater certainty and clarity in the enforcement process, and expanded circumstances where self-disclosure of violations can result in a reduction in or immunity from a penalty.

The Penalty Bill, Executive Order, and corresponding changes to Rules 522 & 523 respond to a perceived public need for higher penalties and greater transparency. Both the Penalty Bill and the Executive Order emphasize the importance of deterring violations and encouraging prompt compliance in order to foster the public trust in the regulation of oil and gas operations. The more robust penalty and enforcement program set forth in Proposed Rules 522 & 523 is intended to increase the public trust in the Commission and in oil and gas operations in Colorado. Therefore, all oil and gas operators will benefit in the long-term from higher compliance rates.

Furthermore, oil and gas operators will benefit from more certainty regarding the enforcement process and penalty calculations. Proposed Rule 522.c. specifically delineates in what circumstances enforcement actions can be resolved without penalties. In addition, proposed Rule 522.b. reduces the time for a Complainant to file an Application for OFV hearing from 45-days to 28-days, providing more certainty about whether an AOC or the Director's decision not to issue an NOAV is a final resolution. Lastly, proposed Rule 523.b. also provides more certainty regarding the calculation of the duration of a violation.

Proposed Rule 523.e. also provides a new opportunity for oil and gas operators to receive an automatic 35 percent penalty reduction for all types of violations – if they have implemented a regulatory compliance program and self-report a violation to the Commission under specific circumstances. A new definition of "regulatory compliance program" was also added to the 100-Series Rules to clarify the requirements for operators. Previously, this penalty reduction was limited to violations of a permit or those resulting in significant adverse impacts, which comprise less than 10% of all Commission enforcement actions. Operators who implement a regulatory compliance program will benefit from the expanded scope of this Rule.

2. Commission Staff

The Commission expects the increased penalties and the other changes to Rules 522 & 523 to encourage compliance. While Commission staff's workload may increase in the short-term, the number of violations and enforcement cases are anticipated to decrease in the long-term as the result of a stronger compliance program. The changes to the voluntary disclosure provision in Rule 523.e. will also encourage operators to self-report violations – decreasing the burden on staff to discover the violations and pursue contested enforcement matters.

Proposed Rule 522 also clarifies and standardizes many aspects of the enforcement process, which will improve staff's ability to work on these matters effectively and efficiently. For example, the new requirement in Rule 522.d.(2) for an operator to file and answer to an NOAV within 28 days will provide facts and other disputed issues to enforcement staff early in the process.

3. Colorado Citizens

Colorado's public will benefit from the proposed changes to Rules 522 & 523. The changes prompted by the Penalty Bill and Executive Order will deter violations and encourage compliance. For example, the proposed changes to Rule 522.c. limit the circumstances in which alleged violations can be resolved without penalties and eliminate the prior emphasis on informal resolution procedures. These increased incentives for compliance will decrease the risk that public health, safety, or welfare, including the environment and wildlife resources, will be negatively impacted by oil and gas operations.

As discussed above in the costs section, the affected class of Colorado citizens may include Complainants under Rule 522.b.(1). Proposed Rule 522.e.(1) ensures that a Complainant who has filed a Form 18 will be informed of the terms of a draft proposed AOC resolving alleged violations arising directly out of their complaint and will be given an opportunity to comment on this draft.

In addition, the changes to the proposed Rules may also decrease the need for Complainants to file Applications for OFV hearings. Under the existing and proposed Rules, a Complainant can apply for an OFV hearing if the Director decides not to issue an NOAV. Proposed Rule 522.c. reduces the circumstances where an alleged violation can be resolved without an NOAV or penalty. The proposed Rules may also reduce the need for Complainants to object to the settlement terms of an AOC. The increased penalty authority implemented through Rule 523 will allow the Commission to impose higher penalties, which is the most common objection made by Complainants.

The addition of a Penalty Matrix to Rule 523 will benefit Colorado citizens by greatly increasing the transparency of the Commission's penalty calculation procedures. The Penalty Matrix identifies specific criteria upon which a penalty for a given violation will be based, and sets forth proposed "baseline" penalties for

violations that fall within the stated criteria. In the past, although the Commission strove to impose consistent penalties for similar violations, there were no written criteria describing how the Commission would calculate penalties. The inclusion of the Penalty Matrix in Rule 523 will allow all stakeholders to better understand the penalty calculation process and procedures.

II. Probable quantitative and qualitative impacts of Proposed Rules 522 & 523 on operators, Commission staff, and Colorado citizens.

Proposed 522 & 523 will likely have quantitative and qualitative impacts on operators, Commission staff, and the citizens of Colorado.

The quantitative impacts on Commission staff are set forth in Section III.A below. The quantitative impacts on the citizens of Colorado include increases to state revenue, which are addressed in Section III.C below.

The Rules may increase the cost of doing business for oil and gas operators in Colorado, but only if they violate the Act, Commission rules, orders, or permits. In the fiscal note for the Penalty Bill, the new penalty authority was anticipated to increase total annual penalty amounts by 30 to 40 percent. Contested matters will likely cost more than uncontested cases due to increased legal fees for operators.

However, there are additional factors in Proposed Rules 522 & 523 that are difficult to quantify and were not quantified at the time of the Bill's fiscal note. For example, the voluntary disclosure penalty reduction in Rule 523.e. was not accounted for in the Bill's calculation. While the Commission hopes that operators take greater advantage of this provision, there is no certainty that operators will utilize the benefit of a regulatory compliance program. Similarly, it is difficult to estimate the costs of a regulatory compliance program.

The qualitative impacts of Proposed Rules 522 & 523 on operators, Commission staff, and Colorado citizens are positive. Operators will have more certainty in the enforcement process and in maintaining their social license to operate in Colorado. Commission staff will benefit from serving Colorado's public by implementing these statutory directives and deterring noncompliance. The citizens of Colorado will have more trust in oil and gas operations and experience a decreased risk of impacts to public health and the environment as a result of higher compliance rates.

III. Probable costs to the Commission and other agencies of Proposed Rules 522 & 523 and any anticipated effect on state revenues.

The anticipated costs to Commission and effect on state revenue for the changes to the Commission's statutory authority were calculated in the fiscal note that accompanied the Penalty Bill. The anticipated impact of the Proposed Rules 522 & 523 implementing this authority is based on the Penalty Bill's fiscal note.

These calculations were based on the following assumptions:

1) Increased penalty authority is projected to lead to a 30 to 40 percent increase in the total penalty amounts per year;

2) Each contested case requires at least 200 hours of enforcement officer time to prepare;

3) Each major contested case requires at least 500 hours of enforcement officer time to prepare;

4) Contested cases require COGCC hearings;

5) Higher penalties will increase the number of contested cases by four to eight per year, and the number of major contested cases by one per year; and

6) To attract qualified staff, a new enforcement officer was hired at mid salary range.

A. Costs to the Commission

The proposed Rule changes are expected to increase expenditures for the Commission by approximately $129,000 and 0.9 FTE in FY 2014-15 and $125,000 and 0.9 FTE thereafter.

The 0.9 FTE appropriated for House Bill 14-1356 will assist with the increase in contested cases at a cost of about $84,000 per year, including benefits, operating, and capital outlay costs. The Commission is expected to hold six additional meetings per year to hear contested cases at an estimated cost of $6,800 per year. The Department of Law is expected to provide the Commission an additional 420 hours ($38,254) per fiscal year in legal services for enforcement actions and appeals. Because the COGCC received an additional 2,180 hours in legal services for enforcement in the FY 2014-15 Long Bill, no additional funds were appropriated for these legal services from the Department of Law in the Penalty Bill.

These expenditures will be paid from the Oil and Gas Conservation and Environmental Response Fund.

B. Costs to Other Agencies

The proposed Enforcement and Penalty Rules are not expected to impose material costs on any other agency.

C. Anticipated Effect on State Revenue

Under the Penalty Bill's fiscal note, proposed Rules were anticipated to provide an increase of approximately $300,000 to $400,000 per year in state revenue. While the maximum penalty per day was increased from $1,000 to $15,000, the revenue estimate assumed that a $15,000 daily penalty is unlikely to be levied on a regular

basis. Actual revenue increases will depend on the type, duration, and resolution of violations.

IV. Comparison of the probable costs and benefits of Proposed Rules 522 & 523 to the probable costs and benefits of inaction.

Proposed Rules 522 & 523 are necessary to implement the amendments to the Act. Ignoring the directives of the Legislature, the will of the people of Colorado, and the Commission's own recommendations are not an option.

Section 121(1)(c) requires the Commission to establish a "penalty schedule appropriate to the nature of the violation and provide for the consideration of any aggravating or mitigating circumstances." The significant change to the Commission's penalty authority – increasing the per day penalty to $15,000 and eliminating the overall penalty cap – warranted substantial changes to the Commission's penalty calculation methodology, set forth in Rule 523. The consideration of the Commission's statutory mandate to foster responsible, balanced development in a manner that protects public health and the environment is necessary to determination of a penalty "appropriate to the nature of the violation." The Commission recommended criteria by rule to determine the degree of actual or threatened adverse impact to public health or the environment, as well as included it in its proposed penalty calculation methodology, in the *Enforcement Guidance and Penalty Review*. The presumptions for the calculation of the duration of a violation are also required by the Act. §34-60-121(1)(c)(I), C.R.S.

Proposed Rules 523.d. and 522.e. also implement the amendments to Section 121(7), which require the Commission to hold a hearing if the Director has evidence that an operator is responsible for: (1) gross negligence or knowing and willful misconduct that results in an egregious violation, or (2) a pattern of violations.

Additional changes to Rules 522 & 523 clarify existing Commission practice and follow the recommendations set forth in the *Enforcement Guidance and Penalty Review*. This Review included procedures identified during a LEAN process to increase both the efficiency and transparency of the Commission's enforcement program. Increasing the efficiency of the enforcement program will reduce costs compared to inaction. Increasing transparency of the enforcement program at no additional cost is a benefit over inaction.

Inaction arguably would benefit operators in the short-term through avoidance of the increased penalties in proposed Rule 523. In the long-term, however, absent the changes proposed in the Enforcement and Penalty Rules, public trust in the state's oil and gas operations will remain stagnant and may even wane. Most importantly, in both the short-term and long-term, these changes are necessary to implement the directives of the State Legislative and Executive branches.

V. Determination of whether there are less costly or intrusive methods, and consideration of any alternative methods, for achieving the purpose of Proposed Rules 522 & 523.

There are no less costly or intrusive methods for achieving the purpose of the proposed Rules 522 & 523. The Legislature passed the Penalty Bill and the proposed rulemaking is a mandated response to this legislative action. As a result, no alternative methods of achieving the Rules' purpose were considered.

Regulatory Analysis of All Other Proposed Rules

The Enforcement and Penalty Rules also propose clarifying changes to the definitions for "Bradenhead", "Container", "Regulatory Compliance Program", "Suspended Operations Wells", "Tank", "Temporarily Abandoned Well", and "Waiting on Completion Well") and Rules 205, 303, 308A, 309, 311, 316A, 316B, 317, 318A, 319, 321, 325, 326, 327, 330, 506, 507, 521, 603, 710, 901, 904, 907, 909, and 910.

The proposed changes to the 500-Series Rules create a more practical timeline for application processes before the Commission (Rules 506 and 507) and create a single service rule (Rule 521).

The addition of the definition of "Regulatory Compliance Program" and deletion of the "Voluntary Self-Evaluation" definition were necessary due to the changes to Rule 523.e. These changes are encompassed in the discussion of Rule 523 above. The Colorado Oil and Gas Association ("COGA") proposed changes to the definition of "Tank", the addition of "non-vehicular" to Rule 205.c., the addition of examples to Rule 316A, and the Rule 317.e. clarification.

No parties have communicated objections to the Commission in their prehearing statement, or otherwise, regarding the clarifications or substantive changes to the definitions of "Bradenhead", "Container", "Suspended Operations Wells", "Tank", "Temporarily Abandoned Well", and "Waiting on Completion Well", or Rules 205, 303, 321, 325, 326, 330, 901, 907, 909, and 910.

The changes to the remaining non-500 Series Rules – 308A, 309, 311, 316A, 316B, 317, 318A, 319, 321, 603, 710, and 904 – are both clarifying and substantive, but do not significantly alter any benefits or burdens.

I. Affected classes of persons, including the classes that will bear the costs and that will benefit from All Other Proposed Rules.

A. Classes Affected by Changes to Rules 506, 507, and 521

The deadline for applications in the proposed Rule 506.a. is 60-days prior to the hearing date for which the applicant proposes the matter be docketed, which is an increase from the prior 50-day deadline. Current Commission practice is to schedule

the application deadline 60-days in advance of the hearing due to processing practicalities. Therefore, this minimal extension will likely not impact any classes of persons.

Proposed Rule 507.a.(1) changes the notice deadline for all Commission proceedings to 35-days prior to the hearing, which is an increase over the prior 20-day notice requirement. This change was necessary due to the extension of the protest deadline to 14-days prior to the hearing in the Clean-up Rulemaking. No stakeholders opposed this change and it will likely benefit mineral owners and any other parties that may be affected by the filing of an application.

Lastly, Rule 521 will benefit operators, Complainants, and Commission staff by clarifying the notice requirements for Notices of Alleged Violation, Notices of Hearing, notices to Complainants regarding Commission decisions, Complainant applications, and Cease and Desist Orders.

B. Classes Affected by Changes to the non-500-Series Rules

There are two affected classes of persons that will benefit from the non-500-Series Rule changes: operators and Commission staff.

Many of these changes were proposed or agreed to by operator stakeholders. Commission staff met with stakeholders multiple times to discuss these changes. The topics of discussion and dates of these meetings were as follows:

1) August 27, 2014 Meeting to discuss the 100-Series Rules definitions of "Tank" and "Container", Rules 317.r., 317.s., 319.A.a, and 605.d.

2) September 3, 2014 Meeting to discuss 100-Series Rules definitions of "Tank" and "Container", Rules 317.r., 317.s., 319.A.a, and 900-Series Rules

3) October 14, 2014 Meeting to discuss all non-500 Series Rule changes

The changes also clarify the Commission's existing practices, procedures, and interpretations. Therefore, although there may be a short-term learning period for both classes, the affected classes will only benefit from these changes in the long-term.

II. Probable quantitative and qualitative impact of All Other Proposed Rules on the affected classes of persons.

All Other Proposed Rules in the Enforcement and Penalty Rulemaking are not expected to quantitatively impact any affected class. These changes will not create any new burdens – financial or otherwise. These changes will qualitatively benefit operators, Complainants, mineral owners, and Commission staff by ensuring that requirements are clear and understandable.

III. Probable costs to the agency and other agencies of All Other Proposed Rules and any anticipated effect on state revenues.

All Other Proposed Rules in the Enforcement and Penalty Rulemaking are not expected to impose material costs on the Commission or any other agency. They are also not expected to materially affect state revenues, positively or negatively.

IV. Comparison of the probable costs and benefits of All Other Proposed Rules to the probable costs and benefits of inaction.

The probable cost of inaction is that the rules will remain unclear – either through language or by not conforming to current Commission practice or interpretation. This will make it more difficult for operators to comply with the Rules, which is especially important due to the changes in the Commission's enforcement program. There are no benefits to inaction, except for removing the immediate and minimal burden of recognizing the changes to the rules' language.

V. Determination of whether there are less costly or intrusive methods, and consideration of alternative methods, for achieving the purpose of All Other Proposed Rules.

The changes to All Other Proposed Rules are not anticipated to impose costs on any party. There are no less costly or intrusive methods. Clarifying and conforming the Rules to current Commission practices is the only method to achieve the Proposed Rules' purpose. Therefore, the Commission did not consider any alternative methods to achieve this purpose.