

Initiative 2023-24 #280
Construction Permits Oil and Gas Operations

Received by Legislative Council Staff
3/22/24 at 1:35 pm

Be it enacted by People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend 25-7-114.2** as follows:

25-7-114.2. Construction permits - oil and gas operations - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "MODIFY" OR "MODIFIED" MEANS ANY PHYSICAL CHANGE IN, OR CHANGE IN THE METHOD OF OPERATION OF, A STATIONARY SOURCE THAT:

(I) INCREASES THE AMOUNT OF ANY AIR POLLUTANT EMITTED BY THE STATIONARY SOURCE BY ANY AMOUNT ON AN ANNUAL OR HOURLY BASIS; OR

(II) RESULTS IN THE EMISSIONS OF ANY AIR POLLUTANT NOT PREVIOUSLY EMITTED BY THE STATIONARY SOURCE."

(b) "OIL AND GAS FACILITY" HAS THE MEANING SET FORTH IN SECTION 34-60-103 (6.2).

(c) "OIL AND GAS LOCATION" HAS THE MEANING SET FORTH IN SECTION 34-60-103 (6.4).

(d) "OIL AND GAS SYSTEM" INCLUDES ALL OF THE OIL AND GAS FACILITIES THAT ARE UNDER COMMON CONTROL OF AN OPERATOR AND THAT ARE EITHER:

(I) LOCATED AT THE SAME OIL AND GAS LOCATION; OR

(II) LOCATED AT DIFFERENT OIL AND GAS LOCATIONS THAT ARE WITHIN TWO MILES OF EACH OTHER, MEASURED FROM THE EDGE OF EACH OIL AND GAS LOCATION, AND THAT USE SHARED EQUIPMENT.

(e) "OPERATOR" HAS THE MEANING SET FORTH IN SECTION 34-60-103 (6.8).

(f) "SHARED EQUIPMENT" INCLUDES STORAGE TANKS, PHASE SEPARATORS, NATURAL GAS DEHYDRATORS, FLOWLINES, BOILERS, SPARK IGNITION AND COMPRESSION IGNITION ENGINES, GLYCOL DEHYDRATORS, AMINE SWEETENING UNITS, EMISSIONS CONTROL DEVICES, PIPELINE COMPRESSORS, UNDERGROUND INJECTION WELLS, AND PUMP STATIONS.

(2)(a) ~~No~~ A person shall NOT construct or ~~substantially alter~~ MODIFY any building, facility, structure, or installation, except single-family residential structures, or install any machine, equipment, or other device, or commence the conduct of any ~~such activity~~ OF THESE ACTIVITIES, or commence performance of any combinations ~~thereof~~ OF THESE ACTIVITIES, or commence operations of any of ~~the same which~~ THESE ACTIVITIES THAT will or do constitute a new stationary source or a new indirect air pollution source without first obtaining or having a valid construction permit ~~therefor~~ FOR THESE ACTIVITIES from the division or commission, as the case may be; except that ~~no~~ A construction permit ~~shall be~~ IS NOT required for new indirect air pollution sources until ~~regulations~~ RULES regarding construction permits for ~~such~~ NEW INDIRECT AIR POLLUTION sources have been promulgated by the commission, but ~~in no event shall~~ ~~regulations~~ RULES governing indirect air pollution sources MUST NOT be more stringent than those required for compliance with the federal act and final rules and regulations adopted pursuant ~~thereto~~ TO THE FEDERAL ACT.

(b) Any emission permit validly issued prior to July 1, 1992, pursuant to section 25-7-114, as ~~said~~ THAT section existed prior to July 1, 1992, and in effect on or after July 1, 1992, ~~shall be~~ IS deemed to be a valid construction permit issued pursuant to this section. The commission shall designate by ~~regulation~~ RULE those classes of minor or insignificant sources of air pollution ~~which~~ THAT are exempt from the requirement for a permit because of ~~their~~ THE MINOR OR INSIGNIFICANT SOURCE'S negligible impact on air quality.

(c) A REQUEST FOR GENERAL PERMIT REGISTRATION DOES NOT CONSTITUTE OBTAINING OR HAVING

A VALID CONSTRUCTION PERMIT.

(3) IN EVALUATING A CONSTRUCTION PERMIT APPLICATION FOR A PROPOSED NEW OR MODIFIED OIL AND GAS SYSTEM, INCLUDING IN DETERMINING WHETHER THE OIL AND GAS SYSTEM IS A MAJOR OR MINOR SOURCE AND INCLUDING IN ANY AIR QUALITY MODELING REQUIRED PURSUANT TO SECTION 25-7-114.9 (2)(b)(II)(A), THE DIVISION OR THE COMMISSION, AS APPLICABLE, SHALL:

- (a) AGGREGATE EMISSIONS ACROSS THE OIL AND GAS SYSTEM; AND
- (b) INCLUDE EMISSIONS FROM EXPLORATION AND PREPRODUCTION ACTIVITIES.

SECTION 2. In Colorado Revised Statutes, **add 25-7-114.9** as follows:

25-7-114.9. Requirements for oil and gas permit applications in a nonattainment area - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AIR QUALITY MODELING" MEANS THE MODELING OF AIR QUALITY IMPACTS OF THE COMBINED EMISSIONS FROM ALL EMISSION UNITS AT A PROPOSED NEW OR MODIFIED OIL AND GAS SYSTEM THAT IS CONDUCTED PURSUANT TO THE MOST RECENT VERSION OF APPENDIX W OF 40 CFR 51, OR ANY SUCCESSOR FEDERAL REGULATION, AND ANY RELEVANT FEDERAL ENVIRONMENTAL PROTECTION AGENCY GUIDANCE FOR OZONE AND FINE PARTICULATE MATTER PERMIT MODELING.

(b) "MODIFY" OR "MODIFIED MEANS ANY PHYSICAL CHANGE IN, OR CHANGE IN THE METHOD OF OPERATION OF, AN OIL AND GAS SYSTEM THAT:

(I) INCREASES THE AMOUNT OF ANY AIR POLLUTANT EMITTED BY THE OIL AND GAS SYSTEM BY ANY AMOUNT ON AN ANNUAL OR HOURLY BASIS; OR

(II) RESULTS IN THE EMISSIONS OF ANY AIR POLLUTANT NOT PREVIOUSLY EMITTED BY THE OIL AND GAS SYSTEM.

(c) "NONATTAINMENT AIR POLLUTANT" MEANS ANY AIR POLLUTANT, INCLUDING ANY PRECURSOR AIR POLLUTANTS, FOR WHICH A NONATTAINMENT AREA IS IN NONATTAINMENT WITH ANY APPLICABLE NATIONAL AMBIENT AIR QUALITY STANDARD.

(d) "NONATTAINMENT AREA" MEANS ANY AREA THAT IS DESIGNATED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AS BEING IN NONATTAINMENT WITH ANY APPLICABLE NATIONAL AMBIENT AIR QUALITY STANDARD.

(e) "OIL AND GAS SYSTEM" HAS THE MEANING SET FORTH IN SECTION 25-7-114.2 (1).

(2)(a) FOR ANY PROPOSED NEW OR MODIFIED OIL AND GAS SYSTEM IN A NONATTAINMENT AREA, THE DIVISION OR COMMISSION, AS APPLICABLE, MAY GRANT A CONSTRUCTION PERMIT APPLICATION PURSUANT TO THIS ARTICLE 7 ONLY IF:

(I) THE DIVISION OR COMMISSION DETERMINES THAT THE PROPOSED NEW OR MODIFIED OIL AND GAS SYSTEM WILL NOT CAUSE OR CONTRIBUTE TO AN EXCEEDANCE OF ANY APPLICABLE NATIONAL AMBIENT AIR QUALITY STANDARDS AND WILL COMPLY WITH ALL OTHER APPLICABLE FEDERAL REGULATIONS;

(II) THE OWNER OR OPERATOR OF THE PROPOSED NEW OR MODIFIED OIL AND GAS SYSTEM ACHIEVES EMISSIONS REDUCTIONS OF EACH NONATTAINMENT AIR POLLUTANT FROM EXISTING SOURCES IN THE NONATTAINMENT AREA THAT ARE EQUAL TO OR GREATER THAN THE ANTICIPATED EMISSIONS OF EACH NONATTAINMENT AIR POLLUTANT BY THE PROPOSED NEW OR MODIFIED OIL AND GAS SYSTEM; AND

(III) THE PROPOSED NEW OR MODIFIED OIL AND GAS SYSTEM IS NOT LOCATED IN A DISPROPORTIONATELY IMPACTED COMMUNITY.

(b)(I) ON AND AFTER JANUARY 1, 2025, THE DIVISION OR COMMISSION, AS APPLICABLE, SHALL BASE ANY DETERMINATION MADE PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION ON AIR QUALITY MODELING, WHICH DETERMINATION MUST NOT BE BASED ON AIR QUALITY MONITORING IN LIEU OF AIR QUALITY MODELING.

(II) THE AIR QUALITY MODELING DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS SECTION MUST INCLUDE:

(A) IF APPLICABLE, MODELING OF THE AIR QUALITY IMPACTS OF THE EMISSIONS DESCRIBED IN SECTION 25-7-114.2 (3); AND

(B) MODELING TO EXAMINE COMPLIANCE WITH THE ONE-HOUR NITROGEN DIOXIDE NATIONAL AMBIENT AIR QUALITY STANDARDS.

(c) IF A CONSTRUCTION PERMIT APPLICATION IS GRANTED BY THE DIVISION OR COMMISSION, AS APPLICABLE, BASED ON AIR QUALITY MODELING PURSUANT TO SUBSECTION (2)(b)(I) OF THIS SECTION:

(I) ANY ASSUMPTION USED IN THE AIR QUALITY MODELING AND ANY EMISSIONS REDUCTIONS THAT THE OWNER OR OPERATOR WILL ACHIEVE PURSUANT TO SUBSECTION (2)(a)(II) OF THIS SECTION MUST BE INCLUDED IN THE CONSTRUCTION PERMIT AS AN ENFORCEABLE PERMIT CONDITION; AND

(II) ANY AVERAGING TIME UTILIZED FOR AN ENFORCEABLE PERMIT CONDITION DESCRIBED IN SUBSECTION (2)(c)(I) OF THIS SECTION MUST BE NO GREATER THAN THE AVERAGING TIME FOR ANY APPLICABLE NATIONAL AMBIENT AIR QUALITY STANDARD.

SECTION 3. In Colorado Revised Statutes, 34-60-106, **amend** (1)(i) and (1)(j); and **add** (1)(k) as follows:

34-60-106. Additional powers of commission - rules - definitions - repeal.

(1) The commission also shall require:

(i) Certificates of clearance in connection with the transportation and delivery of oil and gas or any product; ~~and~~

(j) Metering or other measuring of oil, gas, or product in pipelines, gathering systems, loading racks, refineries, or other places; AND

(k) THAT AN OPERATOR APPLYING FOR A PERMIT FROM THE COMMISSION OBTAIN ANY CONSTRUCTION PERMIT REQUIRED BY ARTICLE 7 OF TITLE 25 FOR THE APPLICABLE OIL AND GAS LOCATION FROM THE DIVISION OF ADMINISTRATION IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE AIR QUALITY CONTROL COMMISSION, AS APPLICABLE, BEFORE MAKING A FINAL DETERMINATION ON THE PERMIT APPLICATION.

SECTION 4. Applicability. This act applies to conduct occurring on or after the effective date of this act, including determinations of applications pending on the effective date.