

**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

**PREHEARING RESPONSE STATEMENT  
OF THE AFFILIATED LOCAL GOVERNMENTS**

Boulder County, the City of Lafayette, and the City of Longmont, participating as the Affiliated Local Governments ("ALG"), by and through each party's respective undersigned attorneys, hereby file this Prehearing Response Statement in the above captioned matter as follows:

**I. Response to Industry Proposal.**

The Colorado Oil and Gas Association ("COGA"), joined by Anadarko Petroleum Corporation, American Petroleum Institute d/b/a/ Colorado Petroleum Council, and Noble Midstream Partners LP, proposed Alternative Rule ("Alternative Rule") language in its Prehearing Statement.

**A. Overall attempt to weaken original rule language.**

The ALG generally oppose those parts of the Alternative Rule that weaken the COGCC initial Draft Rulemaking. Examples of weakened language include:

- Rule 1102(c)(1) substitute "knowledgeable of" for "trained in".
- Rule 1102(c)(9) strike the requirement that "Flowlines and crude oil transfer lines must be installed as designed".
- Rule 1102(g) strike concept that the inspector must be "*trained, experienced and qualified*" and instead only require the inspector to be "experienced and qualified".
- Rule 1102(h)(1) weakens the maintenance language from "prevent failure, leakage and corrosion of flowlines and crude oil transfer lines" to "prevent failures and leakage and *minimize* corrosion of flowlines and crude oil transfer lines".
- Rule 1102(h)(2) weakens language around known conditions that could adversely affect the safe and proper operation of a flowline or crude oil transfer line and which could present an immediate hazard to persons or property. Current language requires the operator to "not operate the affected part of the system until the operator has corrected the condition";

proposed language allows continued operations while the condition is being corrected.

- Rule 1103 modifications weaken notice requirements by removing or altering the requirement that operators must provide notice to the COGCC Director of all initial pressure testing without exception. As noted by the City and County of Broomfield in its Prehearing Statement (which the ALG joined), the ALG supports a rule requiring operators to provide advance notification of pressure tests to the Director as well as the LGD. Pressure tests can result in significant emissions and/or noise or other disruptions that may concern local residents. Having notice of such events allows an opportunity for local inspector to witness the testing event(s), and also ensures that local governments can respond to concerned citizens.
- Rule 602(c)(3) weakens notification provisions concerning reportable safety events from the current language requiring notice for “any accident involving a major or life threatening injury” to notice only being required for “any accident involving in-patient hospitalization”.
- Rule 602(c)(4) weakens notification provisions concerning reportable safety events from the current language requiring notice for “any injury to the member of the general public that requires Medical Treatment” to notice for only “*accidents resulting in an injury to the general public that requires Medical Treatment*”.
- Rule 602(c)(5) weakens notification provisions concerning reportable safety events from the current language requiring notice for “any natural event or accident that results in an actual or threatened safety event” to notice for only safety events that are “natural event, (i.e., flood, tornado, lighting strike, or landslide) or accident that results in *significant damage to equipment at an oil and gas facility that requires an emergency shutdown*”.
- Rule 602(e) modifying the requirement that operators “respond as directed by first responders” to a requirement that operators merely “cooperate and coordinate with first responders”.

## **B. Inventory of Domestic Taps.**

In its Prehearing statement, the ALG provided alternative language requiring the Rules to contain a requirement that operators inventory all existing domestic gas taps for the purposes of improved monitoring and safety. The original proposed rule only had such a inventorying requirement for operators “upon installation or discovery” of a domestic tap. COGA further weakens the original rule to a domestic tap inventory requirement for only new domestic taps installed after February 14, 2018. This language does not require an inventory of other “discovered” domestic taps and certainly does not cover the universe of existing domestic taps. The ALG requests the Commission use its proposed alternative rule language from its Prehearing Statement which covers the universe of existing and planned domestic gas taps.

**C. Integrity Management.**

In its Prehearing Statement, COGA requests a new subsection (o) to Rule 1103 Integrity Management allowing (1) variances to previous integrity management rules to remain in place until terminated by the COGCC and (2) allowing for variances, under Rule 502.b., to the new Rule 1103 Integrity Management protocols. The ALG objects to both proposed rules. First, there is no reason to allow a variance to a previous integrity management rule to remain in place after adoption of a new and more robust Flowline Integrity Management Rule. Second, the Rule 502.b. variance procedure contains de minimis criteria only requiring the operator to show it has made a good faith effort to comply with the regulation or is unable to comply with the regulation and that the variance will not violate the basic intent of the Act. This variance proposal could be used as a loophole to undercut the basic intent of the new flowline integrity management protocol. For this reason, the ALG requests the Commission not accept the COGA alternative proposed variance language for flowline integrity management protocol. If the Commission desires to consider some aspect of a variance procedure, the ALG suggests that any variance only be allowed if the proposed variance criteria only allows a variance if the applicant can demonstrate that it is impossible to comply with Rule 1103 and the proposed alternative is at least as protective as implementation of the integrity management protocol required by Rule 1103, as determined by the Commission after notice and a hearing.

**II. ALG Joinder in Prehearing Response by City and County of Broomfield.**

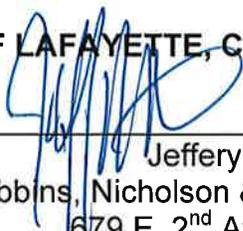
The ALG hereby joins in the Prehearing Response Statement concurrently filed by the City and County of Broomfield.

DATED this 18th day of December, 2017.

Respectfully submitted,

**CITY OF LAFAYETTE, COLORADO**

By: \_\_\_\_\_

  
Jeffery P. Robbins  
Goldman, Robbins, Nicholson & Mack, PC  
679 E. 2<sup>nd</sup> Ave., Suite C  
P. O. Box 2270  
Durango, Colorado 81301  
[robbins@grn-law.com](mailto:robbins@grn-law.com)

**BOULDER COUNTY, COLORADO**

By: /s/ David Hughes

David Hughes  
Deputy County Attorney  
Katherine A. Burke  
Assistant County Attorney  
P. O. Box 471  
Boulder, CO 80306  
[dhughes@bouldercounty.org](mailto:dhughes@bouldercounty.org)  
[kaburke@bouldercounty.org](mailto:kaburke@bouldercounty.org)

By:



Kimberly Sanchez  
[ksanchez@bouldercounty.org](mailto:ksanchez@bouldercounty.org)

**CITY OF LONGMONT, COLORADO**

By: /s/ Dan Kramer

Dan Kramer  
Assistant City Attorney  
350 Kimbark Street  
Longmont, CO 80501  
[Dan.Kramer@longmontcolorado.gov](mailto:Dan.Kramer@longmontcolorado.gov)

## CERTIFICATE OF SERVICE

I hereby certify that, on December 18, 2017, Jeffery P. Robbins, Goldman, Robbins, Nicholson & Mack, P.C. caused the Prehearing Response Statement Of The Affiliated Local Governments in Colorado Oil and Gas Conservation Commission Docket No. 171200767 to be electronically filed and served as follows:

Colorado Oil and Gas Conservation Commission  
ATTN: Julie Prine  
1120 Lincoln Street, Suite 801  
Denver, CO 80203  
julieprine@state.co.us

Electronic Copy to the COGCC:  
DNR\_COGCC.Rulemaking@state.co.us

/s/ Linda Etz   
Linda Etz

### **Electronic copy:**

Adams County

clamere@adcogov.org

Affiliated Local Governments (Boulder  
County Lafayette & Longmont Cities)

kaburke@bouldercounty.org  
robbins@grn-law.com  
ksanchez@bouldercounty.org  
dan.Kramer@longmontcolorado.gov

American Petroleum Institute/  
Colorado Petroleum Council

jfulcher@bwenergylaw.com  
jmartin@bwenergylaw.com  
bentleyT@api.org  
paulesm@api.org

Anadarko Petroleum

david.Neslin@dgslaw.com  
greg.Nibert@dgslaw.com

Brighton, City of

mattsura.law@gmail.com

Broomfield, City and County of

elizabethparanhos@delonelaw.com  
TYellico@broomfield.org

Colorado Association of Home Builders

RFeuerstein@polsinelli.com

Colorado Interstate Gas

jjost@jostenergylaw.com  
kwasylenky@jostenergylaw.com

Colorado Oil & Gas Association

mmathews@bhfs.com  
jrhine@bhfs.com

	dan.haley@coga.org andrew.casper@coga.org
Colorado Petroleum Association	jseman@jps-law.net
Crestone Peak	david.Neslin@dgslaw.com greg.Nibert@dgslaw.com
Fitzgerald, Jim & Terry	JimmyFitzer2003@yahoo.com
Fort Collins, City of	byatabe@fcgov.com
Gas Detection Services LLC	mreinhart@gasdetectionco.com
Gunnison County	dbaumgarten@gunnisoncounty.org
Lachelt, Gwen	gwenlachelt@gmail.com
League of Oil and Gas Impacted Coloradoans	sloflin@coloradologic.org
Noble Midstream	Brian.Briscoe@nblenergy.com
Northwest Colorado Council of Governments Quality/Quantity Committee	qqwater@nwccog.org barbara@sullivangreanseavy.com
Oil & Gas Accountability Project	pazogg@yahoo.com
PDC Energy, Inc.	David.Neslin@dgslaw.com Greg.Nibert@dgslaw.com
Petron Development Company	jim@petron.net
Pioneer Natural Resources USA, Inc.	Douglas.Wall@pxd.com
Thornton City of	lori.shevenell@cityofthornton.net Gary.Jacobson@cityofthornton.net
United Association Rocky Mountain Pipe Trades District Council #5	susaneckert.sellc@comcast.net jmsantarella.sellc@comcast.net
Weld Air and Water	cberickson1958@gmail.com
Weld County, Board of County Commissioners	bbarker@weldgov.com
Western Colorado Congress	emily@wccongress.org mattsura.law@gmail.com