



Colorado Air Quality Update: New Pneumatic Controller Rules Adopted, Cap and Trade Proposal Rejected

By: [Chris Colclasure](#) and [Craig Rowland](#)

Colorado Air Quality Control Commission Adopts Pneumatic Controller Rules

On February 18, 2021, the Air Quality Control Commission (Commission) adopted regulations to shift well production facilities and natural gas compressor stations away from pneumatic controllers that emit natural gas to the atmosphere. The Commission has not yet published a clean version of the regulation but voted to adopt the parties' [final prehearing draft](#) without change. The new regulations require operators to use non-emitting pneumatic controllers at new and expanded facilities and to retrofit some existing facilities. The rule represents a compromise agreement between trade associations, individual operators, environmental advocates, local governments and the state. The agreement is expected to help Colorado achieve its statutory greenhouse gas (GHG) reduction goals and attain federal ozone standards while giving operators the flexibility to select the most cost-effective facilities for retrofit.

Colorado defines a pneumatic controller as a device that monitors a process parameter such as liquid level, pressure, or temperature and uses pressurized gas to send a signal to a control valve to control the process parameter. Many pneumatic controllers are natural gas-driven and emit natural gas during normal operation. Non-emitting controllers can be driven by compressed air, electricity, or mechanical force, or they may capture and route any natural gas emissions to a sales line, process or combustion device.

Non-emitting controllers are required at well production facilities and compressor stations that commence operation after May 1, 2021. They are also required where an individual well commences operation or is refractured or recompleted after that date, and where compression horsepower is increased. However, the Air Pollution Control Division (Division) may approve the use of pneumatic controllers that emit natural gas where necessary for safety or process reasons.

Operators must retrofit some existing well production facilities and compressor stations with non-emitting controllers by May 1, 2022, and a second tranche by May 1, 2023. The number of well production facilities an operator must retrofit is tied to the percentage of its historic statewide liquids production (oil and water combined) that currently uses non-emitting controllers. Operators that already use non-emitting controllers on a high percentage of their liquids production are rewarded with a smaller retrofit requirement, while operators that use non-emitting controllers on a low percentage of their liquids production must perform more retrofits.

The retrofit requirements for compressor stations are based directly on the percentage of controllers that are non-emitting. Operators that already use a high percentage of non-emitting controllers have less aggressive retrofit requirements.

The agreement is designed to minimize costs by granting flexibility to operators. Operators develop plans that identify which facilities they will retrofit. The agreement incentivizes operators to address the highest producing and highest emitting facilities first in order to minimize costs. To further reduce costs and regulatory burdens, operators of so-called “stripper wells” are exempt from the retrofit requirement if the operator’s total statewide oil and natural gas production averages 15 barrels of oil equivalent (BOE) or less per day per well. However, this exemption will be reevaluated in the future.

While the rule imposes additional requirements on Colorado’s oil and gas industry, operators participating in the rulemaking accepted it as a cost-effective way to satisfy at least part of the state’s aggressive GHG reduction mandate and reduce emissions of ozone precursors in advance of a likely “bump-up” of the Denver Metro/North Front Range ozone nonattainment area to “severe” nonattainment status. The agreement provides regulatory certainty and addresses a source of emissions that environmental advocacy groups have focused on for several years. In addition, the expected emissions reductions will help many operators achieve corporate environmental, social and governance goals while continuing to produce energy safely, cleanly and responsibly.

Future Colorado Air Quality Control Commission Actions Affecting the Oil and Gas Industry

On February 19, 2021, the Commission rejected a proposal by the Environmental Defense Fund (EDF) to create a cap and trade program for GHG emissions. Governor Polis has called cap and trade programs ["unworkable"](#) in Colorado and sent a letter to the Commission expressing concern that the proposal would detract from his administration’s GHG Roadmap. While some Commissioners expressed interest in EDF’s proposal, the majority voted it down based on the Division’s lack of resources to implement the program, complexity, timing, and a desire to pursue sector-specific requirements. The Commission believes Colorado is not on track to meet its statutory GHG reduction goals and directed its staff to evaluate legal issues associated with a potential cap and trade program for future discussion.

As described in our January 21, 2021 [Energy News Alert](#), EDF’s proposal would have covered natural gas processing plants, natural gas utilities, and suppliers of gasoline and other fuels, among others. While EDF’s proposal did not specifically cover oil and gas production, all operators with engines, generators or other combustion equipment emitting certain amounts of carbon dioxide would have been subject to the rule.

The Colorado Air Pollution Control Division intends to propose additional GHG and ozone regulations for the oil and gas industry in September 2021, for potential adoption by the Commission in December 2021.

Beatty and Wozniak, P.C. represented the Colorado Oil and Gas Association in the pneumatic controller rulemaking and the GHG cap and trade petition. For more information about air quality issues affecting the oil and gas industry, contact [Chris Colclasure](#).