OIL AND GAS

Colo. passes landmark flaring ban, sets up Permian fight

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Flaring at a well site at Pawnee National Grassland in Colorado. WildEarth Guardians/Flickr

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Colorado oil and gas regulators barred most gas flaring and venting yesterday and established the nation's most stringent setback requirements for drilling near homes and schools.

It was a landmark rule and a win for environmental groups, and advocates for Colorado's approach to regulating the industry hope to make similar inroads in Texas and New Mexico, where natural gas flaring is a major challenge.

"It's not just a waste issue, it's also a pretty serious climate and local pollution issue," Colin Leyden, director of regulatory affairs for the Environmental Defense Fund in Texas, said on a conference call last week.

Methane, the main ingredient in natural gas, is a powerful greenhouse gas and is responsible for about one-fourth of the climate change the world has experienced so far. State standards on flaring and other sources of emissions in the oil and gas industry are a crucial way to cut down methane pollution, particularly because the Trump administration has rolled back plans to regulate the pollutant at the federal level.

Texas and New Mexico are particularly large sources of methane because of the Permian Basin, where oil wells produce large amounts of gas. The price of gas has been so low for the last few years that some producers view it as a waste product and burn it in flares.

The practice not only wastes gas, it produces other pollutants like nitrogen oxides. And while burning methane is preferable to simply venting it to the atmosphere, the practice still produces large amounts of carbon dioxide.

Getting Texas and New Mexico to improve their rules could be a heavy lift, given opposition from oil companies.

Colorado's rules were set in motion by S.B. 181, which the Legislature passed and Gov. Jared Polis (D) signed in 2019. The law requires the Colorado Oil and Gas Conservation Commission to prioritize public health and safety, instead of balancing those concerns against the need to produce oil and gas.

In addition to restrictions ending routine flaring and venting, the COGCC **voted** 5-0 to approve a 2,000-foot setback between newly drilled wells and surrounding homes, and separate rules providing setbacks from water bodies and wildlife habitat.

Following the votes, COGCC Chair Jeff Robbins thanked those who participated in the rulemaking and said the rules "provide a path forward for oil and gas production in a manner that protects Colorado and provides all of us a voice and a seat at the table."

"I am truly confident that as we move into the day-to-day permitting in 2021, that we will prove that we have accomplished the legislators' goals and [Polis'] goals of regulating and allowing for oil and gas development to occur in our great state in a manner that is protective of people, our environment and our wildlife," Robbins said.

Dan Haley, president and CEO of the Colorado Oil & Gas Association (COGA), said that although the rulemaking process was "contentious" and "frustrating" at times, the Centennial State now has "the toughest oil and natural gas development regulations in the country."

And while Haley pushed back on the necessity of the 2,000-foot siting requirements, saying, "No scientific evidence was presented that showed such an extreme distance was necessary," he said "off-ramps" were established for permits below 2,000 feet.

"We have full confidence that operators will show how future development will be protective of public health and safety, and we're hopeful the commissioners' judgment will be based on what is necessary and reasonable, rather than the precautionary principle alone," Haley said in a statement.

New Mexico to curb flaring

Colorado enacted the country's first-ever methane regulations in 2014, requiring companies to check for and repair leaks at oil wells, tank batteries and other equipment.

Colorado's oil industry flares only a small percentage of its natural gas, and the state's producers largely didn't object to the new rules, according to COGA.

The amount of flaring and methane leakage is far higher in New Mexico and Texas. EDF estimates that 3.7% of the gas produced in the Permian Basin, which straddles the two states, is lost to leaks, and the Norwegian data firm Rystad Energy estimated that Permian producers flared about 5% of gas production in 2019 (***Energywire***, Feb. 5).

New Mexico's regulators are scheduled to hold a hearing in January on a plan that'll require companies to capture 98% of their gas production and crack down on venting and flaring. A separate part of the plan, to be approved later in the year, will also require periodic leak checks at oil and gas sites.

But the proposed regulations have broad exemptions for low-producing wells and wells that have relatively low emissions from the leak-check requirements, according to EDF. Eliminating those carve-outs from the rules would enable the state to cut emissions by 56%, compared with a 21% reduction if the exemptions are left in place.

"All the data and economics point to the cost effectiveness getting rid of these exemptions," said Jon Goldstein, EDF's regulatory affairs director for New Mexico.

The New Mexico Oil and Gas Association helped negotiate the current proposal, but it's opposed to tighter restrictions, Robert McEntyre, the trade group's spokesman, said in an email.

"The oil and natural gas industry is committed to using the best, most advanced technology available to reduce emissions and help New Mexico meet this historic gas capture goal, but a one-size-fits-all approach only curbs innovation and limits the industry's ability to invest in and develop new strategies and methods to reduce emissions," he wrote.

Texas exemptions

In Texas, the state Railroad Commission has regulations on its books that prohibit gas flaring, and the state agency won a string of court cases in the 1940s and '50s that upheld its ability to prevent wasting gas.

But the current commission has approved thousands of exemptions to the rules, typically siding with oil companies that say that installing gas pipelines would effectively waste state resources by making it too expensive to produce oil (***Energywire***, June 15).

The Railroad Commission recently approved a plan that'll require companies to provide more information before they can flare gas, and that could set a time limit on some flaring. But the changes didn't go far enough, Cyrus Reed, conservation director for the Lone Star Chapter of the Sierra Club, said last week.

"In my view the railroad commissioners have not done their job," Reed said.

The Railroad Commission doesn't appear ready to change its approach. Republicans have had all three seats on the commission since 1994, and its members have a history of questioning whether human activity causes climate change. Meanwhile, the state's oil industry has pushed for a package of voluntary moves to control flaring.

"The oil and natural gas industry is simultaneously making tremendous strides through voluntary, meaningful operational improvements and by embracing innovative technologies," Texas Oil and Gas Association President Todd Staples said in a statement.

Leyden, with EDF, said pressure from investors and from the industry's customers could eventually force Texas to change its policies.

Just this month, a French utility company canceled plans to import liquefied natural gas from a Texas operator because of concerns about the methane footprint of U.S. natural gas (***Energywire***, Nov. 4).

"There's a real risk that the Texas oil and gas industry, represented on the national stage by climate-denying regulators, gets relegated to some sort of pariah status by a world moving very quickly on carbon reduction," Leyden said in an email.

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