Colorado Revised Statutes 2023

TITLE 34

MINERAL RESOURCES

Cross references: For leases with option to purchase oil, gas, and minerals, see article 42 of title 38; for leases of future contingent interests in oil, gas, and minerals, see article 43 of title 38; for valuation of mines and of oil and gas leaseholds and lands, see articles 6 and 7 of title 39; for commissioner of mines as executive director of the department of natural resources, see §§ 24-1-124 (1) and 24-33-102 (1).

OIL AND NATURAL GAS

Conservation and Regulation

ARTICLE 60

Oil and Gas Conservation

34-60-101. Short title. This article shall be known and may be cited as the "Oil and Gas Conservation Act".

Source: L. 51: p. 662, § 16. **CSA:** C. 118, § 68(15). **CRS 53:** § 100-6-19. **C.R.S. 1963:** § 100-6-19.

34-60-102. Legislative declaration. (1) (a) It is declared to be in the public interest and the commission is directed to:

(I) Regulate the development and production of the natural resources of oil and gas in the state of Colorado in a manner that protects public health, safety, and welfare, including protection of the environment and wildlife resources;

(II) Protect the public and private interests against waste in the production and utilization of oil and gas;

(III) Safeguard, protect, and enforce the coequal and correlative rights of owners and producers in a common source or pool of oil and gas to the end that each such owner and producer in a common pool or source of supply of oil and gas may obtain a just and equitable share of production therefrom; and

(IV) Plan and manage oil and gas operations in a manner that balances development with wildlife conservation in recognition of the state's obligation to protect wildlife resources and the hunting, fishing, and recreation traditions they support, which are an important part of Colorado's economy and culture. Pursuant to section 33-1-101, C.R.S., it is the policy of the state of Colorado that wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors.

(b) It is neither the intent nor the purpose of this article 60 to require or permit the proration or distribution of the production of oil and gas among the fields and pools of Colorado on the basis of market demand. It is the intent and purpose of this article 60 to permit each oil and gas pool in Colorado to produce up to its maximum efficient rate of production, subject to the protection of public health, safety, and welfare, the environment, and wildlife resources and the prevention of waste as set forth in section 34-60-106 (2.5) and (3)(a), and subject further to the enforcement and protection of the coequal and correlative rights of the owners and producers of a common source of oil and gas, so that each common owner and producer may obtain a just and equitable share of production from the common source.

(2) It is further declared to be in the public interest to assure that producers and consumers of natural gas are afforded the protection and benefits of those laws and regulations of the United States that affect the price and allocation of natural gas and crude oil, including the federal "Natural Gas Policy Act of 1978", 15 U.S.C. sec. 3301 et seq., as amended, and particularly that the energy and carbon management commission created in section 34-60-104.3 (1) be empowered to exercise such powers and authorities as may be delegated to it by the laws or regulations of the United States, including said "Natural Gas Policy Act of 1978", and, in the exercise of such powers and authorities, to make such rules

and to execute such agreements and waivers as are reasonably required to implement such power and authority.

Source: L. 55: p. 656, § 10. **CRS 53:** § 100-6-22. **C.R.S. 1963:** § 100-6-22. **L. 79:** Entire section amended, p. 1319, § 1, effective February 16. **L. 94:** (1) amended, p. 1978, § 2, effective June 2. **L. 2007:** (1) amended, p. 1357, § 2, effective May 29; (1) amended, p. 1328, § 1, effective July 1. **L. 2019:** IP(1)(a), (1)(a)(I), and (1)(b) amended, (SB 19-181), ch. 120, p. 506, § 6, effective April 16. **L. 2023:** (2) amended, (SB 23-285), ch. 235, p. 1256, § 34, effective July 1.

Editor's note: Amendments to subsection (1) by House Bill 07-1341 and House Bill 07-1298 were harmonized.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (1), see section 1 of chapter 317, Session Laws of Colorado 1994. For the legislative declaration contained in the 2007 act amending subsection (1), see section 1 of chapter 320, Session Laws of Colorado 2007.

34-60-103. Definitions. As used in this article 60, unless the context otherwise requires:

(1) "And" includes the word "or" and the use of the word "or" includes the word "and". The use of the plural includes the singular and the use of the singular includes the plural.

(2) "Commission" means the energy and carbon management commission created in section 34-60-104.3 (1).

(3) "Common source of supply" is synonymous with "pool" as defined in this section.

(4) "Correlative rights" means that each owner and producer in a common pool or source of supply of oil and gas shall have an equal opportunity to obtain and produce his just and equitable share of the oil and gas underlying such pool or source of supply.

(4.3) "Division of parks and wildlife" means the division of parks and wildlife identified in article 9 of title 33, C.R.S.

(4.5) "Exploration and production waste" means those wastes that are generated during the drilling of and production from oil and gas wells, during the drilling of and

production from wells for deep geothermal operations, as defined in section 37-90.5-103 (3), regulated by the commission pursuant to article 90.5 of title 37, or during primary field operations and that are exempt from regulation as hazardous wastes under Subtitle C of the federal "Resource Conservation and Recovery Act of 1976", 42 U.S.C. secs. 6901 to 6934, as amended.

(5) "Gas" means all natural gases and all hydrocarbons not defined in this section as oil.

(5.3) "Local government" means, except with regard to section 34-60-104 (2)(a)(I), a:

(a) Municipality or city and county within whose boundaries an oil and gas location is sited or proposed to be sited; or

(b) County, if an oil and gas location is sited or proposed to be sited within the boundaries of the county but is not located within a municipality or city and county.

(5.5) "Minimize adverse impacts" means, to the extent necessary and reasonable to protect public health, safety, and welfare, the environment, and wildlife resources, to:

(a) Avoid adverse impacts from oil and gas operations; and

(b) Minimize and mitigate the extent and severity of those impacts that cannot be avoided.

(6) "Oil" means crude petroleum oil and any other hydrocarbons, regardless of gravities, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas before or after it leaves the reservoir.

(6.2) "Oil and gas facility" means equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, treatment, or processing of crude oil, condensate, exploration and production waste, or gas.

(6.4) "Oil and gas location" means a definable area where an oil and gas operator has disturbed or intends to disturb the land surface in order to locate an oil and gas facility.

(6.5) "Oil and gas operations" means exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, recompletion, reworking, or abandonment of an oil and gas well, underground injection well, or gas storage well; production operations related to any such well including the installation of flow lines and gathering systems; the generation, transportation, storage, treatment, or disposal of exploration and production wastes; and any construction, site preparation, or reclamation activities associated with such operations.

(6.8) "Operator" means any person who exercises the right to control the conduct of oil and gas operations.

(7) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others, including the owner of a well capable of producing oil or gas, or both.

(7.1) "Parks and wildlife commission" means the parks and wildlife commission created in section 33-9-101, C.R.S.

(7.5) "Permit" means any permit, sundry notice, notice of intention, or other approval, including any conditions of approval, which is granted, issued, or approved by the commission.

(8) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or any governmental subdivision thereof.

(9) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both. Each zone of a general structure, which zone is completely separated from any other zone in the structure, is covered by the word "pool" as used in this article.

(10) "Producer" means the owner of a well capable of producing oil or gas, or both.

(10.5) "Surface owner" means any person owning all or part of the surface of land upon which oil and gas operations are conducted, as shown by the tax records of the county in which the tract of land is situated, or any person with such rights under a recorded contract to purchase.

(10.7) "Underground natural gas storage cavern" means a facility that stored natural gas in an underground cavern or abandoned mine on or before January 1, 2000. An underground natural gas storage cavern includes all surface or subsurface rights and appurtenances associated with the underground injection, storage, and withdrawal of natural gas, but does not include any compressor stations or pipeline facilities subject to regulation by the public utilities commission or the United States department of transportation.

(11) "Waste", as applied to gas:

(a) Includes the escape, blowing, or releasing, directly or indirectly into the open air, of gas from wells productive of gas only, or gas in an excessive or unreasonable amount from wells producing oil or both oil and gas; and the production of gas in quantities or in such manner as unreasonably reduces reservoir pressure or, subject to subsection (11)(b) of this section, unreasonably diminishes the quantity of oil or gas that ultimately may be

produced; excepting gas that is reasonably necessary in the drilling, completing, testing, and in furnishing power for the production of wells; and

(b) Does not include the nonproduction of gas from a formation if necessary to protect public health, safety, and welfare, the environment, or wildlife resources as determined by the commission.

(12) "Waste", as applied to oil:

(a) Includes underground waste; inefficient, excessive, or improper use or dissipation of reservoir energy, including gas energy and water drive; surface waste; open-pit storage; and waste incident to the production of oil in excess of the producer's aboveground storage facilities and lease and contractual requirements, but excluding storage, other than open-pit storage, reasonably necessary for building up or maintaining crude stocks and products of crude stocks for consumption, use, and sale; and

(b) Does not include the nonproduction of oil from a formation if necessary to protect public health, safety, and welfare, the environment, or wildlife resources as determined by the commission.

(13) "Waste", in addition to the meanings as set forth in subsections (11) and (12) of this section:

(a) Means, subject to subsection (13)(b) of this section:

(I) Physical waste, as that term is generally understood in the oil and gas industry;

(II) The locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner that causes or tends to cause reduction in quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; and

(III) Abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas from the pool, causing reasonably avoidable drainage between tracts of land or resulting in one or more producers or owners in the pool producing more than an equitable share of the oil or gas from the pool; and

(b) Does not include the nonproduction of oil or gas from a formation if necessary to protect public health, safety, and welfare, the environment, or wildlife resources as determined by the commission.

(14) Repealed.

(15) "Wildlife resources" means fish, wildlife, and their aquatic and terrestrial habitats.

Source: L. 51: pp. 652, 653, §§ 3, 4, 5. **CSA:** C. 118, §§ 68(3), 68(4), 68(5). **L. 52:** p. 132, § 1. **CRS 53:** § 100-6-3. **L. 55:** p. 649, § 2. **C.R.S. 1963:** § 100-6-3. **L. 94:** (4.5), (6.5), (6.8), (7.5), and (10.5) added, p. 1979, § 3, effective June 2. **L. 2001:** (10.7) added, p. 1303, § 1, effective June 5. **L. 2007:** (4.3), (5.5), (14), and (15) added, p. 1329, § 2, effective July 1. **L. 2011:** (4.3) and (14) amended and (7.1) added, (SB 11-208), ch. 293, p. 1394, § 27, effective July 1. **L. 2012:** (7.1) amended and (14) repealed, (HB 12-1317), ch. 248, p. 1235, § 89, effective June 4. **L. 2019:** IP, (5.5), (11), (12), and (13) amended and (5.3), (6.2), and (6.4) added, (SB 19-181), ch. 120, p. 506, § 7, effective April 16. **L. 2023:** (2) and (4.5) amended, (SB 23-285), ch. 235, p. 1248, § 17, effective July 1.

Editor's note: Subsection (7.1) was numbered as (1.5) in Senate Bill 11-208 but has been renumbered on revision for ease of location.

Cross references: For the legislative declaration contained in the 1994 act enacting subsections (4.5), (6.5), (6.8), (7.5), and (10.5), see section 1 of chapter 317, Session Laws of Colorado 1994.

34-60-104. Oil and gas conservation commission - report - publication - repeal. (Repealed)

Source: L. 51: p. 651, § 2. **CSA:** C. 118, §68(2). **L. 52:** p. 130, § 1. **CRS 53:** § 100-6-2. **L. 55:** p. 648, § 1. **C.R.S. 1963:** § 100-6-2. **L. 64:** p. 158, § 109. **L. 68:** p. 130, § 146. **L. 72:** p. 550, § 15. **L. 82:** (2)(a) and (2)(b) amended, p. 358, § 20, effective April 30. **L. 85:** (2)(a) amended, p. 1128, § 1, effective July 1. **L. 87:** (2)(b) amended, p. 912, § 26, effective June 15. **L. 90:** (2)(a) amended, p. 1545, § 1, effective May 8. **L. 91:** (2)(a) amended, p. 1415, § 2, effective April 19. **L. 94:** (2)(a) amended, p. 1979, § 4, effective June 2. **L. 2000:** (2) amended, p. 754, § 1, effective July 1. **L. 2007:** (2)(a) amended, p. 1358, § 3, effective May 29. **L. 2012:** (2)(b) amended, (HB 12-1317), ch. 248, p. 1235, § 90, effective June 4. **L. 2019:** (1), (2)(a)(I), and (2)(a)(II) amended, (SB 19-181), ch. 120, p. 508, § 8, effective April 16.

Editor's note: (1) Subsection (2)(a)(III)(B) provided for the repeal of subsection (2)(a)(III), effective July 1, 2010. (See L. 2007, p. 1358.)

(2) Subsection (1)(b) provided for the repeal of this section, effective July 1, 2020. (See L. 2019, p. 508.)

34-60-104.3. Energy and carbon management commission - report - publication. (1) There is created, in the department of natural resources, the energy and carbon management commission. The commission is a **type 1** entity, as defined in section 24-1-105.

(2) (a) The commission consists of seven members, five of whom shall be appointed by the governor with the consent of the senate. The executive director of the department of natural resources and the executive director of the department of public health and environment, or the executive directors' designees, are ex officio nonvoting members. A majority of the voting commissioners constitutes a quorum for the transaction of its business.

(b) Each appointed commissioner must be a qualified elector of this state. Each appointed commissioner, before entering upon the duties of office, shall take the constitutional oath of office. Excluding the executive directors from consideration, no more than three members of the commission may be members of the same political party. To the extent possible, consistent with this subsection (2), the members shall be appointed taking into account the need for geographical representation of areas of the state with high levels of current or anticipated oil and gas activity or employment. The appointed members of the commission shall devote their entire time to the duties of their offices to the exclusion of any other employment and are entitled to receive compensation as designated by law.

(c) One appointed member must be an individual with substantial experience in the oil and gas industry; one appointed member must have substantial expertise in planning or land use; one appointed member must have formal training or substantial experience in environmental protection, wildlife protection, or reclamation; one appointed member must have professional experience demonstrating an ability to contribute to the commission's body of expertise that will aid the commission in making sound, balanced decisions; and one appointed member must have formal training or substantial experience in public health.

(d) No person may be appointed to serve on the commission or hold the office of commissioner if the person has a conflict of interest with oil and gas development in Colorado. Examples of conflicts of interest include being registered as a lobbyist at the local or state levels, serving in the general assembly within the prior three years, or serving in an official capacity with an entity that educates or advocates for or against oil and gas activity. This subsection (2)(d) shall be construed reasonably with the objective of disqualifying from the commission any person who might have an immediate conflict of interest or who may not be able to make balanced decisions about oil and gas regulation in Colorado. A person who has worked with or for an energy or environmental entity need not be disqualified if

the person's experience shows subject matter knowledge coupled with an ability to render informed, thorough, and balanced decision-making.

(e) Members of the commission shall be appointed for terms of four years each; except that the initial terms of two members are two years. The governor shall designate one member of the commission as chair of the commission. The chair shall delegate roles and responsibilities to commissioners and the director. The governor may at any time remove any appointed member of the commission, and by appointment the governor shall fill any vacancy on the commission. In case one or more vacancies occur on the same day, the governor shall designate the order of filling vacancies.

(3) The commission shall report to the executive director of the department of natural resources at such times and on such matters as the executive director may require.

(4) Publications of the commission circulated in quantity outside the executive branch are subject to the approval and control of the executive director of the department of natural resources.

(5) This section takes effect on the earlier of July 1, 2020, or the date on which all rules required to be adopted by section 34-60-106 (2.5)(a), (11)(c), and (19) have become effective. The director shall notify the revisor of statutes in writing of the date on which the condition specified in this subsection (5) has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov.

(6) The revisor of statutes is authorized to change all references to the oil and gas conservation commission that appear in the Colorado Revised Statutes to the energy and carbon management commission.

Source: L. 2019: Entire section added, (SB 19-181), ch. 120, p. 509, § 9, effective July 1, 2020. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3410, § 165, effective August 10. **L. 2023:** (1) amended and (6) added, (SB 23-285), ch. 235, p. 1231, § 1, effective July 1.

Editor's note: As of July 1, 2020, the revisor of statutes has not received the notice referred to in subsection (5), therefore this section takes effect July 1, 2020, as set forth in subsection (5).

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

34-60-104.5. Director of commission - duties. (1) Pursuant to section 13 of article XII of the state constitution, the executive director of the department of natural resources shall appoint a director of the commission who must possess such qualifications as may be established by the executive director, the commission, and the state personnel board. The director of the commission is a **type 1** entity, as defined in section 24-1-105.

(2) The director of the commission shall:

(a) Administer the provisions of this article;

(b) Enforce the rules and regulations adopted by the commission;

(c) Implement and administer orders issued by the commission;

(d) (I) Appoint, pursuant to section 13 of article XII of the state constitution, such clerical and professional staff and consultants as may be necessary for the efficient and effective operation of the commission, including at least one and up to two deputy directors; and

(II) Exercise general supervisory control over the staff; and

(e) Perform such other functions as may be assigned to him by the commission, including that of appointment as a hearing officer in accordance with section 34-60-106.

(3) (a) Upon receipt of request for technical review filed pursuant to section 29-20-104 (3)(a), the director of the commission shall appoint technical review board members. The membership of the technical review board must include subject matter experts in local land use planning and oil and gas exploration and production and may include subject matter experts in environmental sciences, public health sciences, or other disciplines relevant to the disputed issues, as determined by the director. The technical review board shall conduct a technical review of the preliminary or final siting determination pursuant to the criteria specified in subsection (3)(b) of this section and, at its discretion, may meet to confer informally with the parties. The technical review must be completed by issuance of a report within sixty days after the director appoints the experts.

(b) A technical review:

(I) Must address the issues in dispute as identified by the operator and the local government, which may include impacts to the recovery of the resource by the preliminary or final siting determination of the local government; whether the local government's determination would require technologies that are not available or are impracticable given the context of the permit application; and whether the operator is proposing to use best management practices; and

(II) Must not address the economic effects of the preliminary or final determination and must result in the issuance of a report.

Source: L. 84: Entire section added, p. 934, § 1, effective March 26. **L. 94:** (2)(d) amended, p. 1980, § 5, effective June 2. **L. 2019:** (2)(d) amended and (3) added, (SB 19-181), ch. 120, p. 510, § 10, effective April 16. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3410, § 166, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1994 act amending subsection (2)(d), see section 1 of chapter 317, Session Laws of Colorado 1994.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

34-60-105. Powers of commission. (1) (a) The commission has jurisdiction over all persons and property, public and private, necessary to enforce this article 60, the power to make and enforce rules and orders pursuant to this article 60, and to do whatever may reasonably be necessary to carry out this article 60.

(b) Any delegation of authority to any other state officer, board, or commission to administer any other laws of this state relating to the conservation of oil or gas, or either of them, is hereby rescinded and withdrawn, and that authority is unqualifiedly conferred upon the commission, as provided in this section; except that, as further specified in section 34-60-131, nothing in this article 60 alters, impairs, or negates the authority of:

(I) The air quality control commission to regulate, pursuant to article 7 of title 25, the emission of air pollutants from oil and gas operations;

(II) The water quality control commission to regulate, pursuant to article 8 of title 25, the discharge of water pollutants from oil and gas operations;

(III) The state board of health to regulate, pursuant to section 25-11-104, the disposal of naturally occurring radioactive materials and technologically enhanced naturally occurring radioactive materials from oil and gas operations;

(IV) The solid and hazardous waste commission to:

(A) Regulate, pursuant to article 15 of title 25, the disposal of hazardous waste from oil and gas operations; or

(B) Regulate, pursuant to section 30-20-109 (1.5), the disposal of exploration and production waste from oil and gas operations; and

(V) A local government to regulate oil and gas operations pursuant to section 29-20-104.

(c) Any person, or the attorney general on behalf of the state, may apply for a hearing before the commission, or the commission may initiate proceedings, upon any question relating to the administration of this article 60, and jurisdiction is conferred upon the commission to hear and determine the question and enter its rule or order with respect to the question.

(2) Repealed.

(3) The attorney general is the legal advisor of the commission, and it is his or her duty to represent the commission in all court proceedings and in all proceedings before it and in any proceedings to which the commission may be a party before any department of the federal government.

(4) (a) Except as specified in subsection (4)(b) of this section, nothing in this article 60 authorizes the state or its local governments, including the commission, boards of county commissioners, and municipalities, to regulate the activities of:

(I) Federally recognized Indian tribes, their political subdivisions, or tribally controlled affiliates, undertaken or to be undertaken with respect to mineral evaluation, exploration, or development on lands within the exterior boundaries of an Indian reservation located within the state; or

(II) Third parties, undertaken or to be undertaken with respect to mineral evaluation, exploration, or development on Indian trust lands within the exterior boundaries of an Indian reservation located within the state.

(b) Regulation by the state or its local governments, including the commission, boards of county commissioners, and municipalities, applicable to non-Indians conducting oil and gas operations on lands within the exterior boundaries of the Southern Ute Indian reservation may apply to lands where both the surface and the oil and gas estates are owned in fee by a person other than the Southern Ute Indian tribe, regardless of whether the lands are communitized or pooled with Indian mineral lands.

(c) Nothing in this article 60 alters the authority for the regulation of air pollution on the Southern Ute Indian reservation as set forth in article 62 of title 24 and part 13 of article 7 of title 25.

Source: L. 51: p. 655, § 7. **CSA:** C. 118, § 68(7). **CRS 53:** § 100-6-5. **C.R.S. 1963:** § 100-6-5. **L. 81:** (2) repealed, p. 1690, § 3, effective May 21. **L. 2016:** (3) amended, (HB 16-1094), ch. 94, p. 268, § 18, effective August 10. **L. 2019:** (1) amended and (4) added, (SB 19-181), ch. 120, p. 511, § 11, effective April 16.

34-60-106. Additional powers of commission - rules - definitions - repeal. (1) The commission also shall require:

(a) Identification of ownership of oil and gas wells, producing leases, tanks, plants, and structures;

(b) The making and filing with the commission of copies of well logs, directional surveys, and reports on well location, drilling, and production; except that logs of exploratory or wildcat wells marked "confidential" shall be kept confidential for six months after the filing thereof, unless the operator gives written permission to release such logs at an earlier date;

(c) The drilling, casing, operation, and plugging of seismic holes or exploratory wells in such manner as to prevent the escape of oil or gas from one stratum into another, the intrusion of water into oil or gas stratum, the pollution of fresh water supplies by oil, gas, salt water, or brackish water; and measures to prevent blowouts, explosions, cave-ins, seepage, and fires;

(d) (Deleted by amendment, L. 94, p. 1980, § 6, effective June 2, 1994.)

(e) That every person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas in this state shall keep and maintain within this state, for a period of five years, complete and accurate records of the quantities thereof, which records, or certified copies thereof, shall be available for examination by the commission, or its agents, at all reasonable times within said period and that every such person shall file with the commission such reasonable reports as it may prescribe with respect to such oil or gas or the products thereof;

(f) (I) That no operations for the drilling of a well for oil and gas shall be commenced without first:

(A) Applying for a permit to drill, which must include proof either that: The operator has filed an application with the local government with jurisdiction to approve the siting of the proposed oil and gas location and the local government's disposition of the application; or the local government with jurisdiction does not regulate the siting of oil and gas locations; and

(B) Obtaining a permit from the commission, under rules prescribed by the commission; and

(II) Paying to the commission a filing and service fee to be established by the commission for the purpose of paying the expense of administering this article 60 as provided in section 34-60-122, which fee may be transferable or refundable, at the option of the commission, if the permit is not used.

(III) Repealed.

(g) That the production from wells be separated into gaseous and liquid hydrocarbons and that each be accurately measured by such means and standards as prescribed by the commission;

(h) The operation of wells with efficient gas-oil and water-oil ratios, the establishment of these ratios, and the limitation of the production from wells with inefficient ratios;

(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.

(2) The commission may regulate:

(a) The drilling, producing, and plugging of wells and all other operations for the production of oil or gas;

(b) The stimulating and chemical treatment of wells; and

(c) The spacing and number of wells allowed in a drilling unit.

(d) Repealed.

(2.5) (a) In exercising the authority granted by this article 60, the commission shall regulate oil and gas operations in a reasonable manner to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and shall protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations.

(b) The nonproduction of oil and gas resulting from a conditional approval or denial authorized by this subsection (2.5) does not constitute waste.

(3) The commission also has the authority to:

(a) Limit the production of oil or gas, or both, from any pool or field for the prevention of waste, and to limit and to allocate the production from such pool or field among or between tracts of land having separate ownerships therein, on a fair and equitable basis so that each such tract will be permitted to produce no more than its just and equitable share from the pool and so as to prevent, insofar as is practicable, reasonably avoidable drainage from each such tract which is not equalized by counter-drainage; and

(b) Classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this article.

(3.5) The commission shall require the furnishing of reasonable security with the commission by lessees of land for the drilling of oil and gas wells, in instances in which the owner of the surface of lands so leased was not a party to such lease, to protect such owner from unreasonable crop losses or land damage from the use of the premises by said lessee. The commission shall require the furnishing of reasonable security with the commission, to restore the condition of the land as nearly as is possible to its condition at the beginning of the lease and in accordance with the owner of the surface of lands so leased.

(4) The grant of any specific power or authority to the commission shall not be construed in this article to be in derogation of any of the general powers and authority granted under this article.

(5) The commission shall also have power to make determinations, execute waivers and agreements, grant consent to delegations, and take other actions required or authorized for state agencies by those laws and regulations of the United States which affect the price and allocation of natural gas and crude oil, including the federal "Natural Gas Policy Act of 1978", 15 U.S.C. sec. 3301 et seq., including the power to give written notice of administratively final determinations.

(6) The commission has the authority, as it deems necessary and convenient, to conduct any hearings or to make any determinations it is otherwise empowered to conduct or make by means of an appointed administrative law judge or hearing officer, but recommended findings, determinations, or orders of any administrative law judge or hearing officer become final in accordance with section 34-60-108 (9). Upon appointment by the commission, a member of the commission may act as a hearing officer.

(7) (a) The commission may establish, charge, and collect docket fees for the filing of applications, petitions, protests, responses, and other pleadings. All fees shall be deposited in the energy and carbon management cash fund created in section 34-60-122 (5) and are subject to appropriations by the general assembly for the purposes of this article 60.

(b) The commission shall by rule establish the fees for the filing of applications in amounts sufficient to recover the commission's reasonably foreseeable direct and indirect

costs in conducting the analysis, including the annual review of financial assurance pursuant to subsection (13) of this section, necessary to assure that permitted operations will be conducted in compliance with all applicable requirements of this article 60.

(8) The commission shall prescribe special rules and regulations governing the exercise of functions delegated to or specified for it under the federal "Natural Gas Policy Act of 1978", 15 U.S.C. sec. 3301 et seq., or such other laws or regulations of the United States which affect the price and allocation of natural gas and crude oil in accordance with the provisions of this article.

(9) (a) (I) Notwithstanding section 34-60-120 or any other provision of law and subject to subsection (9)(a)(II) of this section, the commission, as to class II and class VI injection wells classified in 40 CFR 144.6, may perform all acts for the purposes of protecting underground sources of drinking water in accordance with state programs authorized by the federal "Safe Drinking Water Act", 42 U.S.C. sec. 300f et seq., and regulations under those sections, as amended, and ensuring the safe and effective sequestration of greenhouse gases in a verifiable manner that meets Colorado's short- and long-term greenhouse gas emission reduction goals, as set forth in section 25-7-102 (2)(g).

(II) In performing acts for the purpose of ensuring the safe and effective sequestration of greenhouse gases pursuant to subsection (9)(a)(I) of this section, the commission shall act in accordance with subsection (9)(c) of this section and only after the governor and the commission have made an affirmative determination that the state has sufficient resources necessary to ensure the safe and effective regulation of the sequestration of greenhouse gases in accordance with the findings from the commission's study conducted pursuant to subsection (9)(b) of this section.

(b) The commission shall:

(I) Conduct a study to evaluate what resources are needed to ensure the safe and effective regulation of the sequestration of greenhouse gases and identify and assess the applicable resources that the commission or other state agencies have; and

(II) Report its findings to the governor and the general assembly by December 1, 2021.

(c) (I) The commission may seek class VI injection well primacy under the federal "Safe Drinking Water Act", 42 U.S.C. sec. 300f et seq., as amended, after the commission:

(A) Determines it has the necessary resources for the application outlined in the commission's study performed pursuant to subsection (9)(b) of this section; and

(B) Holds a public hearing on the matter.

(II) The commission may issue and enforce permits as necessary for the purpose set forth in this subsection (9)(c) after the commission makes the determination and holds the hearing set forth in subsection (9)(c)(I) of this section and the commission and the governor satisfy the requirements set forth in subsection (9)(a) of this section.

(III) (A) If the class VI injection well is proposed to be sited in an area that would affect a disproportionately impacted community, the commission shall weigh the geologic storage operator's submitted cumulative impacts analysis and determine whether, on balance, the class VI injection well will have a positive effect on the disproportionately impacted community. A proposal that will have negative net cumulative impacts on any disproportionately impacted community must be denied. The commission's decision must include a plain language summary of its determination.

(B) The commission may amend by rule the cumulative effects analysis and requirements set forth in this subsection (9)(c)(III) if the commission finds the analysis and requirements to be inconsistent with, or incomplete with respect to, the federal environmental protection agency's requirements for class VI primacy.

(C) As used in this subsection (9)(c)(III), "cumulative impacts" means the effect on public health and the environment, including the effect on air quality, water quality, the climate, noise, odor, wildlife, and biological resources, caused by the incremental impact that a proposed new or modified class VI injection well would have when added to the impacts from other past, present, and reasonably foreseeable future development of any type on the affected area, including an airshed or watershed, or on a disproportionately impacted community.

(IV) (A) The commission shall require each operator of a class VI injection well to provide adequate financial assurance demonstrating that the operator is financially capable of fulfilling every obligation imposed on the operator under this article 60 and under rules that the commission adopts pursuant to this article 60.

(B) The financial assurance required under this subsection (9)(c)(IV) must cover the cost of corrective action, injection well plugging, post-injection site care, site closure, and any emergency and remedial response.

(C) The commission shall adopt rules requiring that the financial assurance cover the cost of obligations that are in addition to the obligations listed in subsection (9)(c)(IV)(B) of this section if the additional obligations are reasonably associated with class VI injection wells and locations.

(D) An operator shall maintain the financial assurance required under this subsection (9)(c)(IV) or under any rules adopted pursuant to this subsection (9)(c)(IV) until the commission approves site closure, as specified in rules adopted by the commission.

Commission approval of a site closure does not otherwise modify an operator's responsibility to comply with applicable laws.

(E) Financial assurance provided under this subsection (9)(c)(IV) may be in the form of a surety bond, insurance, or any other instrument that the commission, by rule, deems satisfactory.

(d) In issuing and enforcing permits pursuant to subsection (9)(c) of this section, the commission shall ensure, after a public hearing, that:

(I) The permitting of a class VI injection well complies with a local government's siting of the proposed class VI injection well location;

(II) The proposed new or modified class VI injection well has received an applicable air permit from the division of administration in the department of public health and environment;

(III) The operator of the class VI injection well has received the consent of any surface owner or owners of the land where the surface disturbance will occur and has provided the commission a written contractual agreement that the surface owner or owners have executed; and

(IV) The commission has evaluated and addressed any class VI injection well impacts from the proposed class VI injection well on the affected area to ensure the terms and conditions of any permit issued under this section are sufficient to ensure that any class VI injection well impacts are avoided, minimized to the extent practicable, and, to the extent that any class VI injection well impacts remain, that the impacts are mitigated. The commission shall provide a plain language summary of how the negative impacts are avoided or, if not avoided, minimized and mitigated and, if any, the negative impacts that cannot be mitigated.

(e) As used in this subsection (9), unless the context otherwise requires:

(I) "Class VI injection well impacts" means the effect on the public health and the environment, including air, water and soil, and the climate, caused by the incremental impact that a proposed new or significantly modified class VI injection well and associated infrastructure would have when added to the impacts from other development in the affected area.

(II) "Corrective action" has the meaning set forth in 40 CFR 146.81.

(III) "Disproportionately impacted community" has the meaning set forth in section 24-4-109 (2)(b)(II).

(IV) "Greenhouse gas" has the meaning set forth in section 25-7-140 (6).

(V) "Post-injection site care" has the meaning set forth in 40 CFR 146.81.

(VI) "Site closure" has the meaning set forth in 40 CFR 146.81.

(9.3) (a) The commission, in consultation with the department of public health and environment, may adopt rules to establish a process to certify the quantity and demonstrated security of carbon dioxide stored in a class VI injection well.

(b) The commission, in consultation with the department of public health and environment, shall evaluate the risk of class VI injection wells by determining the likelihood and severity of an incident involving a class VI injection well, the potential for exposure from such incident, and the overall effect that such incident could have on the public health, safety, and welfare and on the environment.

(9.5) (a) On or before February 1, 2024, the commission, in consultation with the department of public health and environment, shall conduct a study to better understand the safety of class VI injection wells, the potential for carbon dioxide releases from the wells, and methods to limit the likelihood of a carbon dioxide release from a class VI injection well or carbon dioxide pipeline or sequestration facility. The study must include:

(I) An evaluation of the potential air quality impacts of capture technology at a carbon dioxide source facility;

(II) Carbon dioxide pipeline safety considerations, including computer modeling to simulate carbon dioxide leaks from pipelines of varying diameters and lengths;

(III) Appropriate safety protocols in the operation and maintenance of a class VI injection well;

(IV) Methods for determining the stability of underground carbon dioxide storage and estimates of the time needed for carbon dioxide plume stabilization; and

(V) Recommendations for safety measures to protect communities from carbon dioxide releases, such as hazard zones, public notification systems, setbacks, additional monitoring requirements, or other measures.

(b) On or before March 1, 2024, the commission shall present its findings and conclusions from the study, including any recommendations for legislation, to the house of representatives energy and environment committee and the senate transportation and energy committee, or their successor committees. The commission shall not permit a class VI injection well in the state until the study has been completed and presented to the general assembly.

(c) A class VI injection well shall not be located within two thousand feet of a residence, school, or commercial building. The commission may adjust the two-thousand-

foot setback by rule after studying and evaluating the severity of impacts arising from four or more class VI injection wells that have been in place in the state for at least four years.

(9.7) (a) The commission may conduct a study to determine if the state should seek regulatory primacy under the federal "Safe Drinking Water Act", 42 U.S.C. sec. 300f et seq., as amended, for all subsurface injection classes included within the federal environmental protection agency's underground injection control program, which study must include recommendations on the appropriate administrative structure and identification of other state agencies that are necessary to implement a safe and effective program.

(b) If the commission conducts the study pursuant to subsection (9.7)(a) of this section, the commission shall, on or before December 1, 2024:

(I) Complete a report summarizing the findings, conclusions, and recommendations from the study;

(II) Post a copy of the completed report on the commission's website; and

(III) Submit copies of the completed report to the house of representatives energy and environment committee and the senate transportation and energy committee, or their successor committees.

(c) This subsection (9.7) is repealed, effective July 1, 2025.

(10) The commission shall promulgate rules and regulations to protect the health, safety, and welfare of any person at an oil or gas well; except that the commission shall not adopt such rules and regulations with regard to parties or requirements regulated under the federal "Occupational Safety and Health Act of 1970".

(11) (a) By July 16, 2008, the commission shall:

(I) (A) Promulgate rules to establish a timely and efficient procedure for the review of applications for a permit to drill and applications for an order establishing or amending a drilling and spacing unit.

(B) Repealed.

(II) Promulgate rules, in consultation with the department of public health and environment, to protect the health, safety, and welfare of the general public in the conduct of oil and gas operations. The rules shall provide a timely and efficient procedure in which the department has an opportunity to provide comments during the commission's decision-making process. This rule-making shall be coordinated with the rule-making required in section 34-60-128 (3)(d) so that the timely and efficient procedure established pursuant to this subsection (11) is applicable to the department and to the division of parks and wildlife.

(b) (I) The general assembly shall review the rules promulgated pursuant to paragraph (a) of this subsection (11) acting by bill pursuant to section 24-4-103, C.R.S., and reserves the right to alter or repeal such rules.

(II) By January 1, 2008, the commission shall promulgate rules to ensure the accuracy of oil and gas production reporting by establishing standards for wellhead oil and gas measurement and reporting. At a minimum, the rules shall address engineering standards, heating value, specific gravity, pressure, temperature, meter certification and calibration, and methodology for sales reconciliation to wellhead meters. The rules shall be consistent with standards established by the American society for testing and materials, the American petroleum institute, the gas processors association, or other applicable standards-setting organizations, and shall not affect contractual rights or obligations.

(c) The commission shall adopt rules that:

(I) Adopt an alternative location analysis process and specify criteria used to identify oil and gas locations and facilities proposed to be located near populated areas that will be subject to the alternative location analysis process; and

(II) In consultation with the department of public health and environment, evaluate and address the potential cumulative impacts of oil and gas development.

(d) (I) By April 28, 2024, the commission shall promulgate rules that evaluate and address the cumulative impacts of oil and gas operations. The rules shall include a definition of cumulative impacts.

(II) The commission shall provide resources to support community engagement in the process from affected communities, including translation, outreach, and other strategies to support public participation.

(III) In promulgating the definition of cumulative impacts by rule pursuant to subsection (11)(d)(I) of this section, the commission shall review, consider, and include addressable impacts to climate, public health, the environment, air quality, water quality, noise, odor, wildlife, and biological resources, and to disproportionately impacted communities, as defined in section 24-4-109 (2)(b)(II).

(IV) As used in this subsection (11)(d), "impacts to climate" means quantification of emissions of greenhouse gases, as defined in section 25-7-140 (6), that occur from sources that are controlled or owned by the operator and reasonably foreseeable truck traffic at an oil and gas location.

(12) The commission, in consultation with the state agricultural commission and the commissioner of agriculture, shall promulgate rules to ensure proper reclamation of the

land and soil affected by oil and gas operations and to ensure the protection of the topsoil of said land during such operations.

(13) The commission shall require every operator to provide assurance that it is financially capable of fulfilling every obligation imposed by this article 60 as specified in rules adopted on or after April 16, 2019. The rule-making must consider: Increasing financial assurance for inactive wells and for wells transferred to a new owner; requiring a financial assurance account, which must remain tied to the well in the event of a transfer of ownership, to be fully funded in the initial years of operation for each new well to cover future costs to plug, reclaim, and remediate the well; and creating a pooled fund to address orphaned wells for which no owner, operator, or responsible party is capable of covering the costs of plugging, reclamation, and remediation. For purposes of this subsection (13), references to "operator" include an operator of an underground natural gas storage cavern and an applicant for a certificate of closure under subsection (17) of this section. In complying with this requirement, an operator may submit for commission approval, without limitation, one or more of the following:

(a) A guarantee of performance where the operator can demonstrate to the commission's satisfaction that it has sufficient net worth to guarantee performance of every obligation imposed by this article 60. The commission shall annually review the guarantee and demonstration of net worth.

(b) A certificate of general liability insurance in a form acceptable to the commission that names the state as an additional insured and covers occurrences during the policy period of a nature relevant to an obligation imposed by this article 60;

(c) A bond or other surety instrument;

(d) A letter of credit, certificate of deposit, or other financial instrument;

(e) An escrow account or sinking fund dedicated to the performance of every obligation imposed by this article 60;

(f) A lien or other security interest in real or personal property of the operator. The lien or security interest must be in a form and priority acceptable to the commission in its sole discretion. The commission shall annually review the lien or security.

(14) Before an operator commences operations for the drilling of any oil or gas well, such operator shall evidence its intention to conduct such operations by giving the surface owner written notice describing the expected date of commencement, the location of the well, and any associated roads and production facilities. Unless excepted by the commission due to exigent circumstances or waived by the surface owner, such notice of drilling shall be mailed or delivered to the surface owner not less than thirty days prior to the date of estimated commencement of operations with heavy equipment. The notice of drilling shall

also be provided to the local government in whose jurisdiction the well is located if such local government has registered with the commission for receipt thereof.

(15) The commission may, as it deems appropriate, assign its inspection and monitoring function, but not its enforcement authority, through intergovernmental agreement or by private contract; except that an assignment must not allow for the imposition of any new tax or fee by the assignee in order to conduct the assigned inspection and monitoring and must not provide for compensation contingent on the number or nature of alleged violations referred to the commission by the assignee.

(15.5) The commission shall use a risk-based strategy for inspecting oil and gas locations that targets the operational phases that are most likely to experience spills, excess emissions, and other types of violations and that prioritizes more in-depth inspections. The commission shall:

(a) Repealed.

(b) Implement the systematic risk-based strategy by July 1, 2014. The commission may use a pilot project to test the risk-based strategy.

(16) The commission has the authority to establish, charge, and collect fees for services it provides, including but not limited to the sale of computer disks and tapes.

(17) (a) The commission has exclusive authority to regulate the public health, safety, and welfare aspects, including protection of the environment, of the termination of operations and permanent closure, referred to in this subsection (17) collectively as "closure", of an underground natural gas storage cavern.

(b) No underground natural gas storage cavern may be closed unless the operator has secured a certificate of closure from the commission. The commission shall issue a certificate of closure if the applicant demonstrates that its closure plan protects public health, safety, and welfare, including protection of the environment.

(c) Before submitting its application, an applicant for a certificate of closure must, to the extent such owners are reasonably identifiable from public records, notify all owners of property, both surface and subsurface, occupied by and immediately adjacent to the underground natural gas storage cavern of the applicant's intent to submit a closure plan. "Immediately adjacent to" means contiguous to the boundaries of the underground natural gas storage cavern. The notice shall advise the owners of a location where a full copy of the closure plan may be inspected, that written comments may be submitted to the commission, and that they may participate in the public hearing required by this subsection (17). The applicant shall notify the owners of the date, time, and place of the public hearing. Contemporaneously with notifying the owners, the applicant shall send a copy of the notice to registered homeowners' associations that have submitted a written request for such notice

prior to the filing of the application with the commission and the board of county commissioners in the county where the underground natural gas storage cavern is located.

(d) The commission shall provide the public with notice and an opportunity to comment on an application filed under this subsection (17) for a certificate of closure pursuant to the procedures set forth in section 34-60-108 (7). The applicant shall attend the public hearing and shall be available at other reasonable times as the director may request to respond to comments and questions.

(e) The director may consult with other state agencies possessing expertise in matters related to closure of underground natural gas storage caverns in the areas of the jurisdiction of such agencies, including, but not limited to, safety, environmental protection, public health, water resources, and geology. Agencies consulted under this subsection (17) may include, but are not limited to, the public utilities commission, the division of reclamation, mining, and safety, the Colorado geological survey, the division of water resources, and the department of public health and environment. Any agency consulted shall provide advice and assistance with respect to matters within its expertise.

(f) The commission may attach conditions to its certificate of closure, including requiring reasonable recovery of residual natural gas, if the commission determines that such conditions are technically feasible and necessary to ensure compliance with the requirements of this subsection (17), taking into consideration cost-effectiveness. If the closure application requires the abandonment of wells and reclamation of well sites associated with the underground natural gas storage cavern, the commission shall attach conditions to its certificate of closure requiring that such well abandonment and reclamation occur in a manner consistent with applicable commission rules.

(g) The commission may, subject to the limitations contained in paragraph (f) of this subsection (17), attach conditions to its certificate of closure requiring:

(I) Reasonable post-closure monitoring and site security at a closed underground natural gas storage cavern; and

(II) That the applicant for the certificate of closure will perform post-closure corrective actions consistent with this subsection (17), including, but not limited to, the limitations contained in paragraph (f) of this subsection (17) if any such post-closure monitoring establishes that the closure does not protect public health, safety, or welfare, including protection of the environment.

(h) The commission shall require that the applicant for a certificate of closure provide reasonable assurance that it is financially capable of fulfilling any obligation imposed under this subsection (17) including, but not limited to, post-closure corrective

action required by paragraph (g) of this subsection (17), in accordance with subsection (13) of this section.

(i) The applicant for a certificate of closure under this subsection (17) shall reimburse the commission's reasonable and necessary costs of reviewing and acting on the application. Such reimbursement shall include:

(I) Reimbursement to the commission, its staff, and any agencies consulted under this subsection (17) for the reasonable cost of the time required to review the application, at a rate commensurate with the hourly compensation of the staff employee performing the actual work, but not to exceed the hourly compensation of the highest paid commission staff employee, based on the employee's annual salary divided by two thousand eighty hours; and

(II) Reimbursement of the reasonable cost to the commission of hiring one or more private consultants to review the application and provide advice to the commission as a result of such review, if the applicant consents in writing to the scope and expected range of costs of the activities to be undertaken by each such private consultant. If the commission and applicant cannot agree on the scope or expected range of costs and if the commission determines a private consultant is necessary in the review of the application, then the commission may hire a private consultant at its own expense.

(18) The commission shall promulgate rules to ensure proper wellbore integrity of all oil and gas production wells. In promulgating the rules, the commission shall consider incorporating recommendations from the State Oil and Gas Regulatory Exchange and shall include provisions to:

(a) Address the permitting, construction, operation, and closure of production wells;

(b) Require that wells are constructed using current practices and standards that protect water zones and prevent blowouts;

(c) Enhance safety and environmental protections during operations such as drilling and hydraulic fracturing;

(d) Require regular integrity assessments for all oil and gas production wells, such as surface pressure monitoring during production; and

(e) Address the use of nondestructive testing of weld joints.

(19) The commission shall review and amend its flowline and inactive, temporarily abandoned, and shut-in well rules to the extent necessary to ensure that the rules protect and minimize adverse impacts to public health, safety, and welfare and the environment, including by:

(a) Allowing public disclosure of flowline information and evaluating and determining when a deactivated flowline must be inspected before being reactivated; and

(b) Evaluating and determining when inactive, temporarily abandoned, and shut-in wells must be inspected before being put into production or used for injection.

(20) The commission shall adopt rules to require certification for workers in the following fields:

(a) Compliance officers with regard to the federal "Occupational Safety and Health Act of 1970", 29 U.S.C. sec. 651 et seq., including specifically working in confined spaces;

(b) Compliance officers with regard to codes published by the American Petroleum Institute and American Society of Mechanical Engineers or their successor organizations;

(c) The handling of hazardous materials;

(d) Welders working on oil and gas process lines, including:

(I) Knowledge of the flowline rules promulgated pursuant to subsection (19) of this section;

(II) A minimum of seven thousand hours of documented on-the-job training, which requirement can be met by an employee working under the supervision of a person with the requisite seven thousand hours of training; and

(III) Passage of the International Code Council Exam F31, national standard journeyman mechanical, or an analogous successor exam, for any person working on pressurized process lines in upstream and midstream operations.

(21) (a) As used in this subsection (21), unless the context otherwise requires:

(I) "Oil and gas reports" means the types of reports described in subsection (21)(b)(I) of this section.

(II) "Random sample" has the meaning set forth in section 2-3-128 (1)(e).

(b) On or before April 15, 2025, the commission shall submit a report to the state auditor that includes:

(I) The following reports filed for the 2023 calendar year by the operators included in the random sample:

(A) Monthly production reports;

(B) Quarterly conservation levies;

(C) Mechanical integrity tests; and

(D) Any reporting of emissions data, including oil and gas location assessments and cumulative impact data identifications;

(II) For the random sample and the total population of operators in the state, a description of any missing oil and gas reports due for the 2023 calendar year or incomplete or incorrect oil and gas reports that were accepted for the 2023 calendar year without a request for completion or correction;

(III) For the random sample and the total population of operators in the state, a copy of any notices given by the commission to an operator pursuant to section 34-60-121 (4) for the 2023 calendar year; and

(IV) For the random sample and the total population of operators in the state, a description of any penalties assessed for the 2023 calendar year, with the data broken down by:

(A) Type of violation; and

(B) Penalty amount assessed against a person for the violation.

(c) The commission shall publish the report submitted to the state auditor pursuant to subsection (21)(b) of this section on its website.

(d) The commission shall provide any additional information that the state auditor requests pursuant to section 2-3-128.

(e) This subsection (21) is repealed, effective July 1, 2026.

(22) The commission shall create and maintain a website that serves as the state portal for information and data regarding the commission's regulatory activities.

Source: L. 51: p. 660, § 11. **CSA:** C. 118, § 68(11). **CRS 53:** § 100-6-15. **L. 55:** p. 654, § 8. **C.R.S. 1963:** § 100-6-15. **L. 64:** p. 509, § 1. **L. 73:** p. 1071, § 1. **L. 77:** (3.5) added, p. 1565, § 1, effective July 1. **L. 79:** (5) to (8) added, p. 1320, § 2, February 16. **L. 81:** (9) added, p. 1339, § 4, effective July 1; (9) amended, p. 2034, § 53, effective July 14. **L. 85:** (10) and (11) added, p. 1129, § 1, effective July 1. **L. 86:** (12) added, p. 1073, § 1, effective April 3. **L. 91:** (1)(f) and (9) amended, p. 1415, § 3, effective April 19. **L. 94:** (1)(d), (2)(d), (11), and (12) amended and (13), (14), (15), and (16) added, p. 1980, § 6, effective June 2. **L. 96:** (15) amended, p. 346, § 1, effective April 17. **L. 2001:** IP(13), (13)(a), (13)(b), and (13)(e) amended and (17) added, pp. 1303, 1304, §§ 2, 3, effective June 5; (14) amended, p. 491, § 6, effective July 1. **L. 2005:** (7) amended, p. 733, § 3, effective July 1. **L. 2006:** (17)(e) amended, p. 218, § 16, effective August 7. **L. 2007:** (2)(d) and (11) amended, pp. 1358, 1359, §§ 4, 6, effective May 29; (11) amended, p. 1344, § 1, effective May 29. **L. 2008:** IP(11)(a),

(11)(a)(II), and (11)(b)(I) amended, p. 1033, § 1, effective May 21; (11)(a)(II) amended, p. 1912, § 122, effective August 5. **L. 2013:** (15.5) added, (SB 13-202), ch. 274, p. 1437, § 2, effective May 24. **L. 2019:** IP(1), (1)(f), IP(2), (2)(b), (2)(c), (6), (7), (13), and (15) amended, (2)(d) repealed, and (2.5), (11)(c), (18), (19), and (20) added, (SB 19-181), ch. 120, p. 513, § 12, effective April 16. **L. 2021:** (9) amended, (SB 21-264), ch. 328, p. 2107, § 3, effective June 24. **L. 2022:** (21) added, (HB 22-1361), ch. 472, p. 3451, § 4, effective July 1. **L. 2023:** (11)(d) added, (HB 23-1294), ch. 401, p. 2408, § 6, effective June 6; (7)(a) amended and (22) added, (SB 23-285), ch. 235, p. 1232, § 3, effective July 1; (9)(a) and (9)(b)(I) amended and (9)(c) to (9)(e), (9.3), (9.5), and (9.7) added, (SB 23-016), ch. 165, p. 736, § 9, effective August 7.

Editor's note: (1) Amendments to subsection (11)(a)(II) by House Bill 08-1379 and House Bill 08-1412 were harmonized.

(2) Subsection (11)(a)(I)(B) provided for the repeal of subsection (11)(a)(I)(B), effective July 1, 2010. (See L. 2007, p. 1359.)

(3) Subsection (15.5)(a)(II) provided for the repeal of subsection (15.5)(a), effective September 1, 2014. (See L. 2013, p. 1437.)

(4) Subsection (1)(f)(III)(B) provided for the repeal of subsection (1)(f)(III), effective January 15, 2021. On January 15, 2021, the revisor of statutes received the notice referred to in subsection (1)(f)(III) related to the repeal. For more information about the repeal and notice, see SB 19-181. (L. 2019, p. 513.)

(5) Section 9 of chapter 401 (HB 23-1294), Session Laws of Colorado 2023, provides that the act changing this section applies to conduct occurring on or after June 6, 2023, including determinations of applications pending on June 6, 2023.

Cross references: (1) For the legislative declaration contained in the 1994 act amending subsections (1)(d), (2)(d), (11), and (12) and enacting subsections (13), (14), (15), and (16), see section 1 of chapter 317, Session Laws of Colorado 1994. For the legislative declaration contained in the 2007 act amending subsections (2)(d) and (11), see section 1 of chapter 320, Session Laws of Colorado 2007. For the legislative declaration in the 2013 act adding subsection (15.5), see section 1 of chapter 274, Session Laws of Colorado 2013. For the legislative declaration in HB 22-1361, see section 1 of chapter 472, Session Laws of Colorado 2022. For the legislative declaration in HB 23-1294, see section 1 of chapter 401, Session Laws of Colorado 2023.

(2) For the federal "Occupational Safety and Health Act of 1970", see 29 U.S.C. § 651 et seq.

34-60-107. Waste of oil or gas prohibited. The waste of oil and gas in the state of Colorado is prohibited by this article.

Source: L. 51: p. 651, § 1. **CSA:** C. 118, § 68(1). **CRS 53:** § 100-6-1. **C.R.S. 1963:** § 100-6-1.

34-60-108. Rules - hearings - process. (1) The commission shall prescribe rules and regulations governing the practice and procedure before it.

(2) No rule, regulation, or order, or amendment thereof, shall be made by the commission without a hearing upon at least twenty days' notice, except as provided in this section. The hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard.

(3) When an emergency requiring immediate action is found by the commission to exist, it is authorized to issue an emergency order without notice of hearing, which shall be effective upon promulgation, but no such order shall remain effective for more than fifteen days.

(4) Any notice required by this article, except as provided in this section, shall be given by the commission either by mailing a copy thereof, postage prepaid, to the last known mailing address of the person to be given notice, or by personal service. In addition, the commission shall cause one publication of such notice, at least ten days prior to the hearing, in a newspaper of general circulation in the city and county of Denver and in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. The notice shall issue in the name of the state, shall be signed by the commission or the secretary of the commission, shall specify the style and number of the proceeding and the time and place at which the hearing will be held, shall state the time within which protests to the granting of a petition shall be filed if a petition has been filed, and shall briefly state the purpose of the proceeding. Should the commission elect or be required to give notice by personal service, such service may be made by any officer authorized to serve summonses or by any agent of the commission in the same manner and extent as is provided by law for the service of summons in civil actions in the district courts of this state. Proof of service by such agent shall be by his affidavit, and proof of service by an officer shall be in the form required by law with respect to service of process in civil actions. In all cases where there is an application for the entry of a pooling order or unitization order, or an application for an exception from an established well spacing

pattern, or a complaint is made by the commission or any party that any provision of this article, or any rule, regulation, or order of the commission, is being violated, notice of the hearing to be held on such application or complaint shall be served on the interested parties either by mail as provided in this subsection (4) or in the same manner as is provided in the Colorado rules of civil procedure for the service of process in civil actions in the district courts of this state.

(5) Any person who believes that he may be an interested party in any proceeding before the commission may file with the commission a request for notices, and thereafter for a period as determined by the commission, not to exceed three years, such person shall be entitled to receive notice by mail of the filing of all petitions upon which a hearing may be held. The filing of a request for notices by a person shall be deemed to be a consent by that person to service of notice by mail at the address shown on the request filed by him in those proceedings in which notice by mail may be given. A request for notices filed under provisions of this subsection (5) may be withdrawn or a new request filed at any time by the person filing the same.

(6) All rules, regulations, and orders issued by the commission shall be in writing, shall be entered in full in books kept by the commission for that purpose, shall be indexed, shall show the date on which such entry was made in the books, which date shall be the date of entry for the purpose of section 34-60-111, and shall be public records open for inspection at all times during reasonable office hours. Except for orders establishing or changing rules of practice and procedure, all orders made and published by the commission shall include or be based upon written findings of fact, which said findings of fact shall be entered and indexed as public records in the manner provided by this section. A copy of any rule, regulation, finding of fact, or order, certified by the commission or by its secretary, shall be received in evidence in all courts of this state with the same effect as the original.

(7) The commission may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, it shall promptly fix a date for a hearing thereon and shall cause notice of the filing of the petition and of the date for the hearing thereon to be given. Any interested party desiring to protest the granting of the petition shall, at least three days prior to the date of the hearing, file a written protest with the commission, which shall briefly state the basis of the protest. Upon a showing that all interested parties have consented in writing to the granting of the petition without a hearing, the commission may enter an order granting the petition forthwith and without a hearing. In all other cases, the hearing shall be held at the time and place specified in the notice, and all persons who have filed a timely protest shall be given full opportunity to be heard. If no protest to the granting of the petition has been made, the commission may enter an order based upon the facts stated in the verified petition, without the necessity of taking testimony or the making of a record.

The commission shall enter its order within thirty days after the hearing. Any person affected by any order of the commission shall have the right at any time to apply to the commission to repeal, amend, modify, or supplement the same.

(8) Any person who files a protest with the commission pursuant to the provisions of subsection (7) of this section shall at the same time serve a copy thereof on the person filing the petition. Such service shall be made by mailing a copy of the protest, postage prepaid, to the petitioner.

(9) Whenever any hearing or other proceeding is assigned to an administrative law judge, hearing officer, or individual commissioner for hearing, the administrative law judge, hearing officer, or commissioner, after the conclusion of the hearing, shall promptly transmit to the commission and the parties the record and exhibits of the proceeding and a written recommended decision that contains the findings of fact, conclusions, and recommended order. A party may file an exception to the recommended order; but if no exceptions are filed within twenty days after service upon the parties, or unless the commission stays the recommended order within that time upon its own motion, the recommended order becomes the decision of the commission and subject to section 34-60-111. The commission upon its own motion may, and where exceptions are filed shall, conduct a de novo review of the matter upon the same record, and the recommended order is stayed pending the commission's final determination of the matter. The commission may adopt, reject, or modify the recommended order.

Source: L. 51: p. 655, § 8. **CSA:** C. 118, § 68(8). **CRS 53:** § 100-6-7. **L. 55:** p. 653, § 5. **C.R.S. 1963:** § 100-6-7. **L. 65:** p. 898, § 2. **L. 69:** p. 874, § 1. **L. 77:** (4) amended, p. 1566, § 1, effective May 24. **L. 94:** (2) amended, p. 1982, § 7, effective June 2. **L. 2019:** (9) added, (SB 19-181), ch. 120, p. 517, § 13, effective April 16.

Cross references: (1) For rule-making procedures, see article 4 of title 24; for rules concerning service of summons and proof thereof, see C.R.C.P. 4.

(2) For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 317, Session Laws of Colorado 1994.

34-60-109. Commission may bring suit. If it appears that any person fails to comply with an order issued pursuant to section 34-60-121, the commission, through the attorney general, shall bring suit in the name of the state against such person in the district court in the county of the residence of the defendant, or in the county of the residence of

any defendant if there is more than one defendant, or in the county where the violation is alleged to have occurred, to restrain such person from continuing such violation or from carrying out the threat of violation. In such suit the court may grant injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions. Proceedings for appellate review or any other proceedings for review may be taken from any judgment, decree, or order in any action under this article as provided by law and the Colorado appellate rules, and all proceedings in the trial and appellate court shall have precedence over any other proceedings then pending in such courts. No bonds shall be required of the commission in any such proceeding or review.

Source: L. 51: p. 657, § 9(c). **CSA:** C. 118, § 68(9)(c). **CRS 53:** § 100-6-9. **L. 55:** p. 654, § 6. **C.R.S. 1963:** § 100-6-9. **L. 94:** Entire section amended, p. 1982, § 8, effective June 2.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 317, Session Laws of Colorado 1994.

34-60-110. Witnesses - suits for violations. (1) The commission has the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it. No person shall be excused from attending and testifying, or from producing books, papers, and records before the commission or a court, or from obedience to the subpoena of the commission or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. Nothing in this section shall be construed as requiring any person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before the commission or court for determination. No natural person shall be subject to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objection, he may be required to testify or produce evidence, documentary or otherwise, before the commission or court, or in obedience to a subpoena; but no person testifying shall be exempted from prosecution and punishment for perjury in the first degree committed in so testifying.

(2) In case of failure or refusal on the part of any person to comply with a subpoena issued by the commission, or in case of the refusal of any witness to testify as to any matter regarding which he may be interrogated, any district court in the state, upon the application of the commission, may issue an order for such person and compel him to comply with

such subpoena, and to attend before the commission and produce such records, books, and documents for examination, and to give his testimony. Such court has the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

Source: L. 51: p. 657, § 9. **CSA:** C. 118, § 68(9). **CRS 53:** § 100-6-8. **C.R.S. 1963:** § 100-6-8. **L. 72:** p. 564, § 37.

34-60-111. Judicial review. Any rule, regulation, or final order of the commission shall be subject to judicial review in accordance with the provisions of section 24-4-106, C.R.S. The commission shall not be required to post bond in any proceeding for judicial review.

Source: L. 51: p. 659, § 10. **CSA:** C. 118, § 68(10). **CRS 53:** § 100-6-11. **L. 55:** p. 654, § 7. **C.R.S. 1963:** § 100-6-11. **L. 81:** Entire section R&RE, p. 1689, § 1, effective May 21.

34-60-112. Plaintiff post bond. No temporary restraining order or injunction of any kind against the commission or its agents, employees, or representatives, or the attorney general, shall become effective until the plaintiff shall execute a bond in such amount and upon such conditions as the court may direct, and such bond is approved by the judge of the court and filed with the clerk of the court. The bond shall be made payable to the state of Colorado, and shall be for the use and benefit of all persons who may be injured by the acts done under the protection of the restraining order or injunction, if the rule, regulation, or order is upheld. No suit on the bond may be brought after six months from the date of the final determination of the suit in which the restraining order or injunction was issued.

Source: L. 51: p. 659, § 10(b). **CSA:** C. 118, § 68(10)(b). **CRS 53:** § 100-6-12. **C.R.S. 1963:** § 100-6-12.

34-60-113. Trial to be advanced. An action, appellate review as provided by law and the Colorado appellate rules, or other proceeding involving a test of the validity of any provision of this article or of a rule, regulation, or order shall be advanced for trial and be

determined as expeditiously as feasible, and no postponement or continuance thereof shall be granted unless deemed imperative by the court.

Source: L. 51: p. 659, § 10(c). **CSA:** C. 118, § 68(10)(c). **CRS 53:** § 100-6-13. **C.R.S. 1963:** § 100-6-13. **L. 81:** Entire section amended, p. 1689, § 2, effective May 21.

34-60-114. Action for damages. Nothing in this article, and no suit by or against the commission, and no violation charged or asserted against any person under any provisions of this article, or any rule, regulation, or order issued under this article, shall impair, abridge, or delay any cause of action for damages which any person may have or assert against any person violating any provision of this article, or any rule, regulation, or order issued under this article. Any person so damaged by the violation may sue for and recover such damages as he otherwise may be entitled to receive. In the event the commission fails to bring suit to enjoin any actual or threatened violation of this article, or of any rule, regulation, or order made under this article, then any person or party in interest adversely affected and who has notified the commission in writing of such violation or threat thereof and has requested the commission to sue, may, to prevent any or further violation, bring suit for that purpose in the district court of any county in which the commission could have brought suit. If, in such suit, the court holds that injunctive relief should be granted, then the commission shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the commission had at all times been the complaining party.

Source: L. 51: p. 657, § 9(d). **CSA:** C. 118, § 68(9)(d). **CRS 53:** § 100-6-10. **C.R.S. 1963:** § 100-6-10.

34-60-115. Limitation on actions. No action or other proceeding based upon a violation of this article or any rule, regulation, or order of the commission shall be commenced or maintained unless it has been commenced within one year from the date of the alleged violation.

Source: L. 51: p. 660, § 10(d). **CSA:** C. 118, § 68(10)(d). **CRS 53:** § 100-6-14. **C.R.S. 1963:** § 100-6-14.

34-60-116. Drilling units - pooling interests. (1) (a) To prevent or to assist in preventing waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the commission, upon its own motion or on a proper application of an interested party, but after notice and hearing as provided in this section, may establish one or more drilling units of specified size and shape covering any pool or portion of a pool.

(b) The application must include proof that either:

(I) The applicant has filed an application with the local government having jurisdiction to approve the siting of the proposed oil and gas location and the local government's disposition of the application; or

(II) The local government having jurisdiction does not regulate the siting of oil and gas locations.

(2) In establishing a drilling unit, the acreage to be embraced within each unit and the shape thereof shall be determined by the commission from the evidence introduced at the hearing; except that, when found to be necessary for any of the purposes mentioned in subsection (1) of this section, the commission is authorized to divide any pool into zones and establish drilling units for each zone, which units may differ in size and shape from those established in any other zone, so that the pool as a whole will be efficiently and economically developed, but no drilling unit shall be smaller than the maximum area that can be efficiently and economically drained by one well. If the commission is unable to determine, based on the evidence introduced at the hearing, the existence of a pool and the appropriate acreage to be embraced within a drilling unit and the shape thereof, the commission is authorized to establish exploratory drilling units for the purpose of obtaining evidence as to the existence of a pool and the appropriate size and shape of the drilling unit to be applied thereto. In establishing the size and shape of the exploratory drilling unit, the commission may consider, but is not limited to, the size and shape of drilling units previously established by the commission for the same formation in other areas of the same geologic basin. Any spacing regulation made by the commission shall apply to each individual pool separately and not to all units on a statewide basis.

(3) The order establishing a drilling unit:

(a) Is subject to section 34-60-106 (2.5); and

(b) May authorize one or more wells to be drilled and produced from the common source of supply on a drilling unit.

(4) The commission, upon application, notice, and hearing, may decrease or increase the size of the drilling units or permit additional wells to be drilled within the established units in order to prevent or assist in preventing waste or to avoid the drilling of unnecessary wells, or to protect correlative rights, and the commission may enlarge the area

covered by the order fixing drilling units, if the commission determines that the common source of supply underlies an area not covered by the order.

(5) After an order fixing drilling units has been entered by the commission, the commencement of drilling of any well into any common source of supply for the purpose of producing oil or gas therefrom, at a location other than authorized by the order, is prohibited. The operation of any well drilled in violation of an order fixing drilling units is prohibited.

(6) (a) When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of the drilling unit, then persons owning the interests may pool their interests for the development and operation of the drilling unit.

(b) (I) In the absence of voluntary pooling, the commission, upon the application of a person who owns, or has secured the consent of the owners of, more than forty-five percent of the mineral interests to be pooled, may enter an order pooling all interests in the drilling unit for the development and operation of the drilling unit. Mineral interests that are owned by a person who cannot be located through reasonable diligence are excluded from the calculation.

(II) The pooling order shall be made after notice and a hearing and must be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the drilling unit the opportunity to recover or receive, without unnecessary expense, a just and equitable share.

(c) Operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of operations upon each separately owned tract in the unit by the several owners of each separately owned tract. That portion of the production allocated or applicable to each tract included in a unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from the tract by a well drilled on it.

(7) (a) Each pooling order must:

(I) Make provision for the drilling of one or more wells on the drilling unit, if not already drilled, for the operation of the wells, and for the payment of the reasonable actual cost of the wells, including a reasonable charge for supervision and storage. Except as provided in subsection (7)(c) of this section, as to each nonconsenting owner who refuses to agree to bear a proportionate share of the costs and risks of drilling and operating the wells, the order must provide for reimbursement to the consenting owners who pay the costs of the nonconsenting owner's proportionate share of the costs and risks out of, and only out of, production from the unit representing the owner's interest, excluding royalty or other

interest not obligated to pay any part of the cost thereof, if and to the extent that the royalty is consistent with the lease terms prevailing in the area and is not designed to avoid the recovery of costs provided for in subsection (7)(b) of this section. In the event of any dispute as to the costs, the commission shall determine the proper costs as specified in subsection (7)(b) of this section.

(II) Determine the interest of each owner in the unit and provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production from the wells applicable to the owner's interest in the wells and, unless the owner has agreed otherwise, a proportionate part of the nonconsenting owner's share of the production until costs are recovered and that each nonconsenting owner is entitled to own and to receive the share of the production applicable to the owner's interest in the unit after the consenting owners have recovered the nonconsenting owner's share of the costs out of production;

(III) Specify that a nonconsenting owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from oil and gas operations on the drilling unit; and

(IV) Prohibit the operator from using the surface owned by a nonconsenting owner without permission from the nonconsenting owner.

(b) Upon the determination of the commission, proper costs recovered by the consenting owners of a drilling unit from the nonconsenting owner's share of production from such a unit shall be as follows:

(I) One hundred percent of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operation of the well or wells commencing with first production and continuing until the consenting owners have recovered such costs. It is the intent that the nonconsenting owner's share of these costs of equipment and operation will be that interest that would have been chargeable to the nonconsenting owner had the owner initially agreed to pay the owner's share of the costs of the well or wells from the beginning of the operation.

(II) Two hundred percent of that portion of the costs and expenses of staking, well site preparation, obtaining rights-of-way, rigging up, drilling, reworking, deepening or plugging back, testing, and completing the well, after deducting any cash contributions received by the consenting owners, and two hundred percent of that portion of the cost of equipment in the well, including the wellhead connections.

(c) (I) A nonconsenting owner of a tract in a drilling unit that is not subject to any lease or other contract for oil and gas development shall be deemed to have a landowner's proportionate royalty of:

(A) For a gas well, thirteen percent until the consenting owners recover, only out of the nonconsenting owner's proportionate eighty-seven-percent share of production, the costs specified in subsection (7)(b) of this section; or

(B) For an oil well, sixteen percent until the consenting owners recover, only out of the nonconsenting owner's proportionate eighty-four-percent share of production, the costs specified in subsection (7)(b) of this section.

(II) After recovery of the costs, the nonconsenting owner then owns his or her full proportionate share of the wells, surface facilities, and production and then is liable for further costs as if the nonconsenting owner had originally agreed to drilling of the wells.

(d) (I) The commission shall not enter an order pooling an unleased nonconsenting mineral owner under subsection (6) of this section over protest of the owner unless the commission has received evidence that the unleased mineral owner has been tendered, no less than sixty days before the hearing, a reasonable offer, made in good faith, to lease upon terms no less favorable than those currently prevailing in the area at the time application for the order is made and that the unleased mineral owner has been furnished in writing the owner's share of the estimated drilling and completion cost of the wells, the location and objective depth of the wells, and the estimated spud date for the wells or range of time within which spudding is to occur. The offer must include a copy of or link to a brochure supplied by the commission that clearly and concisely describes the pooling procedures specified in this section and the mineral owner's options pursuant to those procedures.

(II) During the period of cost recovery provided in this subsection (7), the commission retains jurisdiction to determine the reasonableness of costs of operation of the wells attributable to the interest of the nonconsenting owner.

(8) The operator of wells under a pooling order in which there is a nonconsenting owner shall furnish the nonconsenting owner with a monthly statement of all costs incurred, together with the quantity of oil or gas produced, and the amount of proceeds realized from the sale of production during the preceding month. If the consenting owners recover the costs specified in subsection (7) of this section, the nonconsenting owner shall own the same interest in the wells and the production therefrom, and be liable for the further costs of the operation, as if the owner had participated in the initial drilling operations.

Source: L. 51: p. 653, § 6. **CSA:** C. 118, § 68(6). **L. 52:** p. 130, §§ 2, 3. **L. 53:** p. 443, §§ 1, 2. **CRS 53:** § 100-6-4. **L. 55:** p. 651, § 4. **C.R.S. 1963:** § 100-6-4. **L. 77:** (7) and (8)

amended, p. 1568, § 1, effective June 1. **L. 81:** (7)(c) R&RE, p. 1691, § 1, effective July 1. **L. 88:** (7)(d) added, p. 1216, § 1, effective April 4. **L. 91:** (2) amended, p. 1414, § 1, effective April 19. **L. 2018:** (1), (3), (7), and (8) amended, (SB 18-230), ch. 361, p. 2155, § 1, effective July 1. **L. 2019:** (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I) amended and (7)(a)(IV) added, (SB 19-181), ch. 120, p. 517, § 14, effective April 16.

34-60-117. Prevention of waste - protection of correlative rights. (1) The commission has authority to prevent waste and protect correlative rights of all owners in every field or pool, and when necessary shall limit the production of oil and gas in any field or pool in the exercise of this authority.

(2) If the commission limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction were imposed, the commission shall allocate or distribute the allowable production among the several wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonably avoidable drainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.

(3) The commission shall give due regard to the fact that gas produced from oil pools is to be regulated and restricted in a manner as will protect the reasonable use of its energy for oil production.

(4) Each person purchasing or taking for transportation oil or gas from any owner or producer shall purchase or take ratably, without discrimination in favor of any owner or producer over any other owner or producer in the same common source of supply offering to sell his oil or gas produced therefrom to such person. If two or more persons purchase or take for transportation oil or gas from any common source of supply in quantities such that any tract of land of separate ownership is not producing its just and equitable share from the pool, the person purchasing or taking from the tract producing more than its just and equitable share shall, upon the proper offer to sell being made, reduce the amount purchased or taken from such tract and purchase from each tract not producing its just and equitable share so that each tract of land may produce its just and equitable share of production from the pool. In the event that any such purchaser or person taking oil or gas for transportation is likewise a producer or owner, he is prohibited from discriminating in favor of his own production or storage, or production or storage in which he may be interested, and his own production and storage shall be treated as that of any other producer or owner; but no owner or producer, who is also a purchaser of oil and gas, or who has a market for his oil and gas or either thereof, has the right to invoke the benefits of this section.

Source: L. 51: p. 655, § 7. **CSA:** C. 118, § 68(7). **L. 52:** p. 131, § 4. **CRS 53:** § 100-6-6. **L. 55:** p. 650, § 3. **C.R.S. 1963:** § 100-6-6.

34-60-118. Agreements for development and unit operations. (1) An agreement for repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, or for carrying on any other methods of unit or cooperative development or operation of a field or pool or a part of either, is authorized and may be performed, and shall not be held or construed to violate any statutes relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the commission as being in the public interest for conservation or is reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. Any such agreement entered into prior to July 1, 1951, for any such purpose is approved.

(2) The commission upon the application of any interested person shall hold a hearing to consider the need for the operation as a unit of one or more pools or parts thereof in a field.

(3) The commission shall make an order providing for the unit operation of a pool or part thereof if it finds that:

(a) Such operation is reasonably necessary to increase the ultimate recovery of oil or gas; and

(b) The value of the estimated additional recovery of oil or gas exceeds the estimated additional cost incident to conducting such operations.

(4) The order shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:

(a) A description of the pool, or parts thereof, to be so operated, termed the unit area, but only so much of a pool as has reasonably been defined and determined by drilling operations to be productive of oil or gas may be included within the unit area;

(b) A statement of the nature of the operations contemplated;

(c) An allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, being the production that is not used in the conduct of operations on the unit area or not unavoidably lost. The allocation shall be in accord with the agreement, if any, of the interested parties. If there is no such agreement, the commission shall determine the relative value, from evidence introduced at the hearing, of the separately owned tracts in the unit area, exclusive of physical equipment, for development of oil and gas by unit operations. The commission shall require the production

of or may itself produce such geological, engineering, or other evidence, at the hearing or at any continuance thereof, as may be required to protect the interests of all interested persons. The production allocated to each tract shall be the proportion that the relative value of each tract so determined bears to the relative value of all tracts in the unit area.

(d) A provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the unit operations;

(e) A provision providing how the costs of unit operations, including capital investments, shall be determined and charged to the separately owned tracts and how said costs shall be paid, including a provision providing when, how, and by whom the unit production allocated to an owner who does not pay the share of the cost of unit operations charged to such owner, or the interest of such owner, may be sold and the proceeds applied to the payment of such costs;

(f) A provision, if necessary, for carrying or otherwise financing any person who elects to be carried or otherwise financed, allowing a reasonable interest charge for such service payable out of such person's share of the production;

(g) A provision for the supervision and conduct of the unit operations, in respect to which each person shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the interest of such person;

(h) The time when the unit operations shall commence, and the manner in which, and the circumstances under which, the unit operations shall terminate; and

(i) Such additional provisions that are found to be appropriate for carrying on the unit operations, and for the protection of correlative rights.

(5) No order of the commission providing for unit operations shall become effective unless the plan for unit operations prescribed by the commission has been approved in writing by those persons who, under the commission's order, will be required to pay at least eighty percent of the costs of the unit operation, and also by the owners of at least eighty percent of the production or proceeds thereof that will be credited to interests which are free of cost, such as royalties, overriding royalties, and production payments, and the commission has made a finding, either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been so approved. If the plan for unit operations has not been so approved at the time the order providing for unit operations is made, the commission shall upon application and notice hold such supplemental hearings as may be required to determine if and when the plan for unit operations has been so approved. If the persons owning the required percentage of interest in the unit area do not approve the plan for unit operations within a period of six months from the date on which

the order providing for unit operations is made, such order shall be ineffective and shall be revoked by the commission unless for good cause shown the commission extends said time.

(6) An order providing for unit operations may be amended by an order made by the commission in the same manner and subject to the same conditions as an original order providing for unit operations; but if such an amendment affects only the rights and interests of the owners, the approval of the amendment by the owners of royalty, overriding royalty, production payment, and other such interests which are free of costs shall not be required. No such order of amendment shall change the percentage for the allocation of oil and gas as established for any separately owned tract by the original order, except with the consent of all persons owning oil and gas rights in such tract, or change the percentage for the allocation of cost as established for any separately owned tract by the original order, except with the consent of all owners in such tract.

(7) The commission, by an order, may provide for the unit operation of a pool, or parts thereof, that embraces a unit area established by a previous order of the commission. Such order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportions as those specified in the previous order.

(8) An order may provide for unit operations on less than the whole of a pool where the unit area is of such size and shape as may be reasonably required for that purpose, and the conduct thereof will have no adverse effect upon other portions of the pool.

(9) All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the unit area by the several owners thereof. The portion of the unit production allocated to a separately owned tract in a unit area shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon. Operations conducted pursuant to an order of the commission providing for unit operations shall constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the order of the commission.

(10) The portion of the unit production allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations.

(11) No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to such tract until terminated in accordance with the provisions thereof.

(12) Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations under this article, shall be acquired for the account of the owners within the unit area, and shall be the property of such owners in the proportion that the expenses of unit operations are charged.

Source: L. 51: p. 660, § 12. **CSA:** C. 118, § 68(12). **CRS 53:** § 100-6-16. **C.R.S. 1963:** § 100-6-16. **L. 65:** p. 894, § 1.

34-60-118.5. Payment of proceeds - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Payee" means any person or persons legally entitled to payment from proceeds derived from the sale of oil, gas, or associated products from a well in Colorado, but shall not include those interests owned by the state of Colorado.

(b) "Payer" means the first purchaser of oil, gas, or associated products from a well in Colorado unless the first purchaser has entered into an agreement under which the operator of a well has accepted responsibility for making payments to payees, in which case such operator shall be the payer.

(2) (a) Unless otherwise agreed pursuant to paragraph (b) of this subsection (2), payments of proceeds derived from the sale of oil, gas, or associated products shall be paid by a payer to a payee commencing not later than six months after the end of the month in which production is first sold. Thereafter, such payments shall be made on a monthly basis not later than sixty days for oil and ninety days for gas and associated products following the end of the calendar month in which subsequent production is sold. Payments may be made annually if the aggregate sum due a payee for twelve consecutive months is one hundred dollars or less.

(b) The payer and payee may provide, in a valid lease or other agreement, for terms or arrangements for payment that differ from those set forth in paragraph (a) of this subsection (2).

(2.3) Notwithstanding any other applicable terms or arrangements, every payment of proceeds derived from the sale of oil, gas, or associated products shall be accompanied by information that includes, at a minimum:

(a) A name, number, or combination of name and number that identifies the lease, property, unit, or well or wells for which payment is being made;

(b) The month and year during which the sale occurred for which payment is being made;

(c) The total quantity of product sold attributable to such payment, including the units of measurement for the sale of such product;

(d) The price received per unit of measurement, which shall be the price per barrel in the case of oil and the price per thousand cubic feet ("MCF") or per million British thermal units ("MMBTU") in the case of gas;

(e) The total amount of severance taxes and any other production taxes or levies applied to the sale;

(f) The payee's interest in the sale, expressed as a decimal and calculated to at least the sixth decimal place;

(g) The payee's share of the sale before any deductions or adjustments made by the payer or identified with the payment;

(h) The payee's share of the sale after any deductions or adjustments made by the payer or identified with the payment;

(i) An address and telephone number from which additional information may be obtained and questions answered.

(2.5) Upon written request by the payee, submitted to the payer by certified mail, the payer shall provide to the payee within sixty days a written explanation of those deductions or adjustments over which the payer has control and for which the payer has information, whether or not identified with the payment, and, if requested by the payee, such meter calibration testing and production reporting records that are required to be maintained by the payer in accordance with section 34-60-106 (1)(e). The requirement to provide a written explanation of deductions or adjustments shall not preclude the payer from answering the inquiry by referring the payee to the royalty clause or payment provision in a lease or other agreement.

(2.7) A payer who fails to provide information required or requested in accordance with subsection (2.3) or (2.5) of this section shall be subject to penalties as provided in section 34-60-121.

(3) (a) Compliance with the payment deadlines set forth in subsection (2) of this section shall be suspended when payments are withheld for a period of time due to any of the following reasons:

(I) A failure or delay by the payee to confirm in writing the payee's fractional interest in the proceeds after a reasonable request in writing by the payer for such confirmation;

(II) A reasonable doubt by the payer as to the payee's identity, whereabouts, or clear title to an interest in proceeds; or

(III) Litigation that would affect the distribution of payments to a payee.

(b) Any delay in determining whether or not a payee is entitled to an interest in proceeds shall not affect payments to all other payees so entitled.

(4) If a payer does not make payment within the time frames specified in subsection (2) of this section and such delay in payment was not caused by any of the reasons specified in subsection (3) of this section, the payer shall pay such payee simple interest on the amount of the proceeds withheld, which interest shall be calculated from the date of each sale at a rate equal to two times the discount rate at the federal reserve bank of Kansas City as such rate existed on the first day of the calendar year or years in which proceeds were withheld.

(5) Absent a bona fide dispute over the interpretation of a contract for payment, the commission has jurisdiction to determine the following:

(a) The date on which payment of proceeds is due a payee under subsection (2) of this section;

(b) The existence or nonexistence of an occurrence pursuant to subsection (3) of this section which would justifiably cause a delay in payment; and

(c) The amount of the proceeds plus interest, if any, due a payee by a payer.

(5.5) Before hearing the merits of any proceeding regarding payment of proceeds pursuant to this section, the commission shall determine whether a bona fide dispute exists regarding the interpretation of a contract defining the rights and obligations of the payer and payee. If the commission finds that such a dispute exists, the commission shall decline jurisdiction over the dispute and the parties may seek resolution of the matter in district court.

(6) The commission may assign to the parties the costs of any administrative proceeding pursuant to this section in such proportions as it deems appropriate and may award reasonable attorney fees and costs to the prevailing party. The money received by the commission to cover the costs of such administrative proceedings shall be transmitted to the

state treasurer, who shall credit the money to the energy and carbon management cash fund created in section 34-60-122 (5).

(7) As a prerequisite to seeking relief under this section for the failure of a payer to make timely payment, a payee shall give the payer written notice by certified mail of such failure and the payer shall have twenty days after receipt of the required notice in which to pay the proceeds, plus any interest due thereon, in accordance with the provisions of this section or to respond in writing explaining the reason for nonpayment.

(8) (a) Nothing in this section shall be construed to alter existing substantive rights or obligations nor to impose upon the commission any duty to interpret a contract from which the obligation to pay proceeds arises.

(b) Subsections (2.3), (2.5), and (2.7) of this section shall apply to payments of proceeds derived from sales occurring on or after July 1, 1998.

Source: L. 89: Entire section added, p. 1374, § 1, effective July 1, 1990. **L. 98:** (2) and IP(5) amended and (2.3), (2.5), (2.7), (5.5), and (8) added, p. 636, § 1, effective July 1. **L. 2005:** (6) amended, p. 733, § 4, effective July 1. **L. 2007:** (2.5) amended, p. 1344, § 2, effective May 29. **L. 2023:** IP(5), (5.5), (6), and (8)(a) amended, (SB 23-285), ch. 235, p. 1256, § 35, effective July 1.

34-60-119. Production - limitation. This article shall never be construed to require, permit, or authorize the commission or any court to make, enter, or enforce any order, rule, or judgment that prorates production by requiring restriction of production of any pool or of any well, except a well or wells drilled in violation of section 34-60-116, to an amount less than the well or pool can produce without waste.

Source: L. 51: p. 661, § 14. **CSA:** C. 118, § 68(14). **CRS 53:** § 100-6-18. **L. 55:** p. 658, 11. **C.R.S. 1963:** § 100-6-18. **L. 2007:** Entire section amended, p. 1360, § 7, effective May 29.

Cross references: For the legislative declaration contained in the 2007 act amending this section, see section 1 of chapter 320, Session Laws of Colorado 2007.

34-60-120. Application of article. (1) This article shall apply to all lands within the state of Colorado, except as follows:

(a) As to lands of the United States or lands which are subject to its supervision, this article shall apply only to the extent necessary to permit the commission to protect the correlative rights of each owner and producer within a pool and to carry out the provisions of sections 34-60-106, 34-60-117 (4), 34-60-118, and 34-60-122; but the other provisions of this article shall also apply to such lands only if the officer of the United States having jurisdiction approves the order of the commission which purports to affect such lands.

(b) This article shall not in any case apply to any lands committed to any unit or cooperative agreement approved by the department of interior, except as provided in sections 34-60-106, 34-60-117 (4), and 34-60-118, and except as to privately owned or state lands; except that section 34-60-122 shall apply to all lands and to all production from all lands within the state of Colorado.

Source: L. 51: p. 661, § 13. **CSA:** C. 118, § 68(13). **L. 52:** p. 132, § 2. **CRS 53:** § 100-6-17. **L. 55:** p. 656, § 9. **C.R.S. 1963:** § 100-6-17. **L. 71:** p. 1050, § 1.

34-60-121. Violations - investigations - penalties - rules - definition - legislative declaration. (1) (a) Any operator that violates this article, any rule or order of the commission, or any permit is subject to a penalty of not more than fifteen thousand dollars for each act of violation per day that such violation continues.

(b) The commission may impose a penalty by order only after a hearing in accordance with section 34-60-108 or by an administrative order by consent entered into by the commission and the operator.

(c) The commission shall:

(I) 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. The rules must establish the basis for determining the duration of a violation for purposes of imposing the applicable penalty and include presumptions that:

(A) A reporting or other minor operational violation begins on the day that the report should have been made or other corrective action should have been taken and ends when the required report is submitted or other corrective action is commenced;

(B) Any other violation begins on the date the violation was discovered or should have been discovered through the exercise of reasonable care and ends when corrective action is commenced;

(C) The failure to diligently implement corrective action pursuant to a schedule embodied in an administrative order on consent, order finding violation, or other order of the commission constitutes an independent violation for which the operator may be subject to additional penalties or corrective action orders imposed by the commission; and

(D) The number of days of violation does not include any period necessary to allow the operator to engage in good faith negotiation with the commission regarding an alleged violation if the operator demonstrates a prompt, effective, and prudent response to the violation.

(II) Publish a quarterly report on its website that specifies, for each penalty assessed in the previous quarter:

(A) The actual penalty assessed, including the number of days for which the penalty was assessed and the amount of the penalty per day of violation;

(B) The aggravating or mitigating circumstances from the penalty schedule that applied;

(C) Whether the violation was part of a pattern of violations;

(D) Whether an egregious violation resulted from gross negligence or knowing and willful misconduct;

(E) Whether the penalty was assessed after a hearing or by an administrative order by consent; and

(F) Any other rationale used in determining the amount of the per-day penalty, duration of the violation, or amount of the penalty actually assessed; and

(III) Ensure that the reports prepared pursuant to subparagraph (II) of this paragraph (c) are discussed at the annual departmental presentations made pursuant to section 2-7-203, C.R.S.

(d) An operator subject to a penalty order shall pay the amount due within thirty days after its imposition unless the operator files a judicial appeal. The commission may recover penalties owed under this section in a civil action brought by the attorney general at the request of the commission in the second judicial district. Money collected through the imposition of penalties shall be credited first to any legal costs and attorney fees incurred by the attorney general in the recovery action and then to the environmental response account in the energy and carbon management cash fund created in section 34-60-122 (5).

(e) The general assembly hereby declares that the purposes of this subsection (1) are to deter noncompliance and to encourage any out-of-compliance operators to come into compliance as soon as possible and to those ends intends that, in determining the amount of a penalty, the commission should not reduce the number of days of violation for which a penalty is assessed below that number which the evidence supports.

(2) If any person, for the purpose of evading this article 60 or any rule, regulation, or order of the commission, makes or causes to be made any false entry or statement in a report required by this article 60 or by any such rule, regulation, or order, or makes or causes to be made any false entry in any record, account, or memorandum required by this article 60 or by any such rule, regulation, or order, or omits or causes to be omitted from any such record, account, or memorandum full, true, and correct entries as required by this article 60 or by any such rule, regulation, or order, or removes from this state or destroys, mutilates, alters, or falsifies any such record, account, or memorandum, such person commits a class 2 misdemeanor.

(3) Any person knowingly aiding or abetting any other person in the violation of any provision of this article 60 or any rule, regulation, or order of the commission commits a class 2 misdemeanor.

(4) (a) Any person may submit a complaint to the commission alleging that a violation of this article 60, any rule or order of the commission, or any permit has occurred. If a complaint is received by the commission, the commission or the director shall promptly commence and complete an investigation into the violation alleged by the complaint unless:

(I) The complaint clearly appears on its face to be frivolous, falsified, or trivial; or

(II) The complainant withdraws the complaint.

(b) In investigating a violation alleged by a complaint received pursuant to subsection (4)(a) of this section, the commission or the director shall accept and consider all relevant evidence it receives or acquires, including audio, video, or testimonial evidence, unless the evidence is, on its face, falsified.

(c) Whenever the commission or the director has reasonable cause to believe a violation of any provision of this article 60, any rule or order of the commission, or any permit has occurred, including based on a written complaint from any person, the commission or the director shall provide written notice to the operator whose act or omission allegedly resulted in the violation and require that the operator remedy the violation. The notice must be served personally or by certified mail, return receipt requested, to the operator or the operator's agent for service of process and must state the provision alleged to have been violated, the facts alleged to constitute the violation, and any corrective action and abatement deadlines the commission or director elects to require of the operator.

(d) As used in this subsection (4), "director" means the director of the commission.

(5) (a) If an operator fails to take corrective action required pursuant to subsection (4) of this section, or whenever the commission or the director has evidence that a violation of any provision of this article, or of any rule, regulation, or order of the commission, or of any permit has occurred, under circumstances deemed to constitute an emergency situation, the commission or the director may issue a cease-and-desist order to the operator whose act or omission allegedly resulted in such violation. Such cease-and-desist order shall require such action by the operator as the commission or director deems appropriate. The order shall be served personally or by certified mail, return receipt requested, to the operator or the operator's agent for service of process and shall state the provision alleged to have been violated, the facts alleged to constitute the violation, the time by which the acts or practices cited are required to cease, and any corrective action the commission or the director elects to require of the operator.

(b) The commission or the director may require an operator to appear for a hearing before the commission no sooner than fifteen days after the issuance of a cease-and-desist order; except that the operator may request an earlier hearing. At any hearing concerning a cease-and-desist order, the commission shall permit all interested parties and any complaining parties to present evidence and argument and to conduct cross-examination required for a full disclosure of the facts.

(c) In the event an operator fails to comply with a cease-and-desist order, the commission may request the attorney general to bring suit pursuant to section 34-60-109.

(6) If the commission determines, after a hearing conducted in accordance with section 34-60-108, that an operator has failed to perform any corrective action imposed under subsection (4) of this section or failed to comply with a cease-and-desist order issued under subsection (5) of this section with regard to a violation of a permit provision, the commission may issue an order suspending, modifying, or revoking such permit or may take other appropriate action. An operator subject to an order that suspends, modifies, or revokes a permit shall continue the affected operations only for the purpose of bringing them into compliance with the permit or modified permit and shall do so under the supervision of the commission. Once the affected operations are in compliance to the satisfaction of the commission and any penalty not subject to judicial review or appeal has been paid, the commission shall reinstate the permit.

(7) (a) The commission or the director shall issue an order to an operator to appear for a hearing before the commission in accordance with section 34-60-108 whenever the commission or the director has evidence that an operator is responsible for:

(I) Gross negligence or knowing and willful misconduct that results in an egregious violation; or

(II) A pattern of violation of this article, any rule or order of the commission, or any permit.

(b) If the commission finds, after such hearing, that the operator is responsible under the legal standards specified in paragraph (a) of this subsection (7), it may issue an order that prohibits the issuance of any new permits to the operator, suspends any or all of the operator's certificates of clearance, or both. When the operator demonstrates to the satisfaction of the commission that it has brought each of the violations into compliance and that any penalty not subject to judicial review or appeal has been paid, the commission may vacate the order.

Source: L. 55: p. 656, § 10. **CRS 53:** § 100-6-21. **C.R.S. 1963:** § 100-6-21. **L. 94:** (1) amended and (4) to (7) added, p. 1982, § 9, effective June 2. **L. 2005:** (1) amended, p. 734, § 5, effective July 1. **L. 2014:** (1) and (7) amended, (HB 14-1356), ch. 372, p. 1767, § 1, effective June 6. **L. 2021:** (2) and (3) amended, (SB 21-271), ch. 462, p. 3275, § 613, effective March 1, 2022. **L. 2023:** (4) amended, (HB 23-1294), ch. 401, p. 2408, § 7, effective June 6; (1)(d) amended, (SB 23-285), ch. 235, p. 1257, § 36, effective July 1.

Editor's note: Section 9 of chapter 401 (HB 23-1294), Session Laws of Colorado 2023, provides that the act changing this section applies to conduct occurring on or after June 6, 2023, including determinations of applications pending on June 6, 2023.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (1) and enacting subsections (4) to (7), see section 1 of chapter 317, Session Laws of Colorado 1994. For the legislative declaration in HB 23-1294, see section 1 of chapter 401, Session Laws of Colorado 2023.

34-60-122. Expenses - energy and carbon management cash fund created. (1) (a) In addition to the filing and service fee required to be paid under section 34-60-106 (1)(f) and the fees authorized for other services provided by the commission by section 34-60-106 (16), there is imposed on the market value at the well of all oil and natural gas produced, saved, and sold or transported from the field where produced in this state a charge not to exceed one and seven-tenths mills on the dollar. The commission shall, by order, fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof as, in its judgment, the expenses chargeable against the energy and carbon management cash fund specified in subsection (5) of this section may require.

(b) On and after July 1, 2019, the commission shall ensure that the unobligated portion of the fund does not exceed fifty percent of total appropriations from the fund for the upcoming fiscal year and that there is an adequate balance in the fund to support the operations of the commission, to address environmental response needs, and to fund the purposes identified in section 34-60-124 (10).

(2) (a) On or before March 1, June 1, September 1, and December 1 of each year, every producer or purchaser, whichever disburses funds directly to each and every person owning a working interest, a royalty interest, an overriding royalty interest, a production payment and other similar interests from the sale of oil or natural gas subject to the charge imposed by subsection (1) of this section, shall file a return with the commission showing the volume of oil, gas, or condensate produced or purchased during the preceding calendar quarter, and the actual sales value of such oil, gas, or condensate, including the total consideration due or received at the point of delivery. Such return shall be accompanied by the total amount of the charges due on all interests in the oil or gas except those interests exempted under the provisions of subsection (4) of this section.

(b) Each producer shall advise the commission whether he or the purchaser will be responsible for reporting and remitting the levy under the provisions of paragraph (a) of this subsection (2). If the return is filed by the producer, the producer shall maintain at his place of business for three years the invoice or statement issued by each purchaser showing the amount of oil or gas purchased, the producing lease from which such purchase was made, and the total sales price paid. Such purchaser invoice or statement may be requested periodically by the commission with the quarterly report.

(3) Any producer or purchaser who files a return pursuant to subsection (2) of this section shall pay any such charge or any interest other than his own, and such producer or purchaser is authorized to deduct the amount of such payment from any amount owed by him to the person for whom such charge was paid. Any such charge not paid when required by subsection (2) of this section shall bear interest at the rate of three percent per month, from the date of delinquency until paid.

(4) The charge imposed by subsection (1) of this section shall not apply to the interest in any oil or gas or the proceeds therefrom of the following:

(a) The United States;

(b) The state of Colorado or any of its political subdivisions;

(c) Any Indian or Indian tribe on production from land subject to the supervision of the United States.

(5) (a) The commission shall collect all charges and penalties under this article 60 and remit the charges and penalties to the state treasurer for deposit in the energy and carbon management cash fund, which fund is hereby created in the state treasury.

(b) There is hereby created in the fund the environmental response account, into which shall be deposited penalties pursuant to section 34-60-121 (1). Expenditures authorized pursuant to section 34-60-124 (4) shall be paid in the first instance from the account, and expenditures authorized pursuant to section 34-60-124 (10) shall not be paid from the account. The year-end balance of the account remains in the account.

(c) The general assembly shall annually make appropriations for the purposes authorized by section 34-60-124, and warrants shall be drawn against the appropriations as provided by law.

(d) The revisor of statutes is authorized to change all references to the oil and gas conservation and environmental response fund that appear in the Colorado Revised Statutes to the energy and carbon management cash fund.

Source: L. 51: p. 662, § 18. **CSA:** C. 118, § 68(16). **L. 53:** p. 444, § 3. **CRS 53:** § 100-6-20. **L. 59:** p. 606, § 1. **C.R.S. 1963:** § 100-6-20. **L. 65:** p. 900, § 1. **L. 71:** p. 1051, § 1. **L. 77:** (1) and (5) amended, p. 1570, § 2, effective June 1; (2) and (3) amended, p. 1769, § 9, effective January 1, 1978. **L. 78:** (5) amended, p. 273, § 96, effective May 23. **L. 84:** (2) R&RE and (3) and (5) amended, pp. 936, 937, §§ 1, 2, effective April 27. **L. 86:** (1) and (5) amended, p. 1073, § 2, effective April 3. **L. 87:** (1) amended, p. 1274, § 1, effective May 8. **L. 88:** (5) amended, p. 1217, § 1, effective April 14. **L. 90:** (1) R&RE, p. 1545, § 2, effective May 8. **L. 91:** (2)(a) and (5) amended, pp. 1415, 1416, §§ 4, 5, effective April 19. **L. 94:** (1)(b) and (2)(a) amended, p. 1984, § 10, effective June 2. **L. 2005:** (1)(a), (1)(b), and (5) amended, p. 731, § 1, effective July 1; (1)(b) amended, p. 542, § 3, effective July 1. **L. 2006:** (1)(b) amended, p. 220, § 1, effective March 31. **L. 2014:** (1)(b) amended, (HB14-1077), ch. 79, p. 319, § 1, effective March 27. **L. 2018:** (5) amended, (HB 18-1098), ch. 107, p. 796, § 1, effective April 9. **L. 2019:** (1)(b) amended, (SB 19-181), ch. 120, p. 519, § 15, effective April 16. **L. 2023:** (1) and (5)(a) amended and (5)(d) added, (SB 23-285), ch. 235, p. 1231, § 2, effective July 1.

Editor's note: Amendments to subsection (1)(b) by House Bill 05-1285 and Senate Bill 05-066 were harmonized.

Cross references: (1) For disposition of moneys collected by state agencies or instrumentalities, see § 24-36-103.

(2) For the legislative declaration contained in the 1994 act amending subsections (1)(b) and (2)(a), see section 1 of chapter 317, Session Laws of Colorado 1994.

34-60-123. Interstate compact to conserve oil and gas. The governor may execute agreements with other member states for expiration date extensions or other modifications of the terms of the interstate compact to conserve oil and gas. The governor may further take all steps necessary to effect withdrawal of this state from the compact upon his determination that withdrawal is in the best interests of the state of Colorado.

Source: L. 73: p. 1411, § 73. **C.R.S. 1963:** § 100-6-23.

34-60-124. Energy and carbon management cash fund - definitions - repeal. (1) The state treasurer shall credit the following money to the fund:

(a) The revenues from the surcharge imposed by the commission pursuant to section 34-60-122 (1)(a);

(b) Moneys reimbursed to or recovered by the commission in payment for fund expenditures;

(c) Any moneys appropriated to such fund by the general assembly;

(d) Any moneys granted to the commission from any federal agency for the purposes outlined under subsection (4) of this section;

(e) Prepayments by operators, in situations where a responsible party cannot be identified, as a credit against the surcharge imposed by section 34-60-122 (1)(a), whether in cash or through the provision of services or equipment, in order that the commission may conduct the activities provided for in subsection (4) of this section;

(f) Money recovered from the sale of salvaged equipment, as provided for in subsection (6)(c) of this section; and

(g) Money credited to the fund pursuant to sections 34-64-108 (4) and 37-90.5-106 (4).

(2) The money in the fund does not revert to the general fund at the end of any fiscal year.

(3) The money in the fund is subject to annual appropriation by the general assembly; except that money deposited in the fund constituting forfeited security or other financial assurance provided by operators in accordance with section 34-60-106 (3.5) and (13) is continuously appropriated to the commission for the purpose of fulfilling obligations under this article 60 upon which an operator has defaulted.

(4) The fund may be expended:

(a) By the commission, or by the director at the commission's direction, prior to, during, or after the conduct of any operations subject to the authority of the commission to:

(I) Investigate, prevent, monitor, or mitigate conditions that threaten to cause, or that actually cause, a significant adverse environmental impact on any air, water, soil, or biological resource;

(II) Gather background or baseline data on any air, water, soil, or biological resource that the commission determines may be so impacted by the conduct of oil and gas operations; and

(III) Investigate alleged violations of any provision of this article, any rule or order of the commission, or any permit where the alleged violation threatens to cause or actually causes a significant adverse environmental impact;

(b) For purposes authorized by section 23-41-114 (4);

(c) Repealed.

(d) (I) By the commission and Colorado state university, established in section 23-31-101, for the purposes of the study conducted pursuant to section 34-60-136;

(II) This subsection (4)(d) is repealed, effective September 1, 2025;

(e) (I) To conduct the studies described in sections 34-60-137, 34-60-138, and 37-90.5-110;

(II) This subsection (4)(e) is repealed, effective July 1, 2025; and

(f) To create and maintain the website described in section 34-60-106 (22).

(5) The director of the commission shall prepare an annual report for the executive director of the department of natural resources and the governor regarding the operations of and disbursements from the fund.

(6) For the purposes provided for in subsection (4) of this section, the commission is authorized to:

(a) Enter onto any lands or waters, public or private; and, except in emergency situations, the commission shall provide reasonable notice prior to such entry in order to allow a surface owner, local government designee, operator, or responsible party to be present and to obtain duplicate samples and copies of analytical reports;

(b) Require responsible parties to conduct investigation or monitoring activities and to provide the commission with the results;

(c) Confiscate and sell for salvage any equipment abandoned by a responsible party at a location where the conduct of oil and gas operations has resulted in a significant adverse environmental impact; except that this authority shall be subject to and secondary to any valid liens, security interests, or other legal interests in such equipment asserted by any taxing authority or by any creditor of the responsible party.

(7) If the commission determines that mitigation of a significant adverse environmental impact on any air, water, soil, or biological resource is necessary as a result of the conduct of oil and gas operations, the commission shall issue an order requiring the responsible party to perform such mitigation. If the responsible party cannot be identified or refuses to comply with such order, the commission shall authorize the necessary expenditures from the fund. The commission shall bring suit in the second judicial district to recover such expenditures from any responsible party who refuses to perform such mitigation or any responsible party who is subsequently identified, such action to be brought within a two-year period from the date that final expenditures were authorized. Moneys recovered as a result of such suit shall first be applied to the commission's legal costs and attorney fees and shall then be credited to the fund.

(8) As used in this section:

(a) "Fund" means the energy and carbon management cash fund created in section 34-60-122 (5).

(b) (I) "Responsible party" means any person who conducts an oil and gas operation in a manner that violates any then-applicable provision of this article 60, or of any rule or order of the commission, or of any permit that threatens to cause, or actually causes, a significant adverse environmental impact to any air, water, soil, or biological resource. "Responsible party" includes any person who disposes of any other waste by mixing it with exploration and production waste that threatens to cause, or actually causes, a significant adverse environmental impact to any air, water, soil, or biological resource.

(II) Except as otherwise provided in subsection (8)(b)(I) of this section, "responsible party" does not include any landowner, whether of the surface estate, mineral estate, or both, who does not engage in, or assume responsibility for, the conduct of oil and gas operations.

(9) For purposes of this section, any person who is found to be a responsible party shall be deemed to have consented to the jurisdiction of the commission and the courts of the state of Colorado. Each responsible party shall be liable only for a proportionate share of any costs imposed under this section and shall not be held jointly and severally liable for such costs.

(10) The commission or the director of the commission shall expend the money in the fund for the purposes of administering the provisions of this article 60 and sections 34-64-108 and 37-90.5-106 (1)(b), including staffing, overhead, enforcement, and the payment of environmental responses costs, and for paying expenses in connection with the interstate oil and gas compact commission.

Source: L. 90: Entire section added, p. 1546, § 3, effective May 8. **L. 91:** (4) amended, p. 1416, § 6, effective April 19. **L. 94:** Entire section amended, p. 1985, § 11, effective June 2. **L. 2000:** (3) amended, p. 826, § 1, effective May 24. **L. 2002:** (5) amended, p. 878, § 8, effective August 7. **L. 2005:** IP(1), (1)(a), (1)(e), (2), (3), and (4) amended and (10) added, p. 732, § 2, effective July 1; (4) amended, p. 541, § 2, effective July 1. **L. 2007:** IP(4) amended and (4)(c) added, p. 1587, § 2, effective May 31. **L. 2011:** (4)(c) repealed, (HB 11-1303), ch. 264, p. 1173, § 86, effective August 10. **L. 2023:** (4)(b) amended and (4)(d) added, (HB 23-1069), ch. 219, p. 1140, § 3, effective May 18; IP(1), (1)(f), (2), (3), IP(4), IP(4)(a), (4)(b), (5), (8), and (10) amended and (1)(g), (4)(e), and (4)(f) added, (SB 23-285), ch. 235, p. 1248, § 18, effective July 1.

Editor's note: (1) Amendments to subsection (4) by House Bill 05-1285 and Senate Bill 05-066 were harmonized.

(2) Amendments to subsection (4)(b) by HB 23-1069 and SB 23-285 were harmonized.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 317, Session Laws of Colorado 1994. For the legislative declaration in HB 23-1069, see section 1 of chapter 219, Session Laws of Colorado 2023.

34-60-125. Mitigation of adverse environmental impacts. (Repealed)

Source: L. 90: Entire section added, p. 1546, § 3, effective May 8. **L. 91:** (1) amended, p. 1416, § 7, effective April 19. **L. 94:** Entire section repealed, p. 1987, § 12, effective June 2.

Cross references: For the legislative declaration contained in the 1994 act repealing this section, see section 1 of chapter 317, Session Laws of Colorado 1994.

34-60-126. Credit allowed for prior payment for mitigation of environmental impacts. (Repealed)

Source: L. 90: Entire section added, p. 1546, § 3, effective May 8. **L. 91:** (2) and (3) amended, p. 1417, § 8, effective April 19. **L. 94:** Entire section repealed, p. 1989, § 13, effective June 2.

Cross references: For the legislative declaration contained in the 1994 act repealing this section, see section 1 of chapter 317, Session Laws of Colorado 1994.

34-60-127. Reasonable accommodation. (1) (a) An operator shall conduct oil and gas operations in a manner that accommodates the surface owner by minimizing intrusion upon and damage to the surface of the land.

(b) As used in this section, "minimizing intrusion upon and damage to the surface" means selecting alternative locations for wells, roads, pipelines, or production facilities, or employing alternative means of operation, that prevent, reduce, or mitigate the impacts of the oil and gas operations on the surface, where such alternatives are technologically sound, economically practicable, and reasonably available to the operator.

(c) The standard of conduct set forth in this section shall not be construed to prevent an operator from entering upon and using that amount of the surface as is reasonable and necessary to explore for, develop, and produce oil and gas.

(d) The standard of conduct set forth in this section shall not be construed to abrogate or impair a contractual provision binding on the parties that expressly provides for the use of the surface for the conduct of oil and gas operations or that releases the operator from liability for the use of the surface.

(2) An operator's failure to meet the requirements set forth in this section shall give rise to a cause of action by the surface owner. Upon a determination by the trier of fact that such failure has occurred, a surface owner may seek compensatory damages or such equitable relief as is consistent with subsection (1) of this section.

(3) (a) In any litigation or arbitration based upon this section, the surface owner shall present evidence that the operator's use of the surface materially interfered with the surface owner's use of the surface of the land. After such showing, the operator shall bear the burden of proof of showing that it met the standard set out in subsection (1) of this section. If an operator makes that showing, the surface owner may present rebuttal evidence.

(b) An operator may assert, as an affirmative defense, that it has conducted oil and gas operations in accordance with a regulatory requirement, contractual obligation, or land use plan provision, that is specifically applicable to the alleged intrusion or damage.

(4) Nothing in this section shall:

(a) Preclude or impair any person from obtaining any and all other remedies allowed by law;

(b) Prevent an operator and a surface owner from addressing the use of the surface for oil and gas operations in a lease, surface use agreement, or other written contract; or

(c) Establish, alter, impair, or negate the authority of local and county governments to regulate land use related to oil and gas operations.

Source: L. 2007: Entire section added, p. 1335, § 2, effective September 1.

Cross references: For the legislative declaration contained in the 2007 act enacting this section, see section 1 of chapter 314, Session Laws of Colorado 2007.

34-60-128. Habitat stewardship - rules. (1) This section shall be known and may be cited as the "Colorado Habitat Stewardship Act of 2007".

(2) The commission shall administer this article so as to minimize adverse impacts to wildlife resources affected by oil and gas operations.

(3) In order to minimize adverse impacts to wildlife resources, the commission shall:

(a) Establish a timely and efficient procedure for consultation with the parks and wildlife commission and division of parks and wildlife on decision-making that impacts wildlife resources;

(b) Provide for commission consultation and consent of the affected surface owner, or the surface owner's appointed tenant, on permit-specific conditions for wildlife habitat protection that directly impact the affected surface owner's property or use of that property. Such permit-specific conditions for wildlife habitat protection shall be discontinued when final reclamation has occurred. Permit-specific conditions for wildlife habitat protection that do not directly impact the affected surface owner's property or use of that property, such as off-site compensatory mitigation requirements, do not require the consent of the surface owner or the surface owner's appointed tenant.

(c) Implement, whenever reasonably practicable, best management practices and other reasonable measures to conserve wildlife resources;

(d) Promulgate rules, by July 16, 2008, in consultation with the parks and wildlife commission, to establish standards for minimizing adverse impacts to wildlife resources affected by oil and gas operations and to ensure the proper reclamation of wildlife habitat during and following such operations. At a minimum, the rules shall address:

(I) Developing a timely and efficient consultation process with the division of parks and wildlife governing notification and consultation on minimizing adverse impacts, and other issues relating to wildlife resources;

(II) Encouraging operators to utilize comprehensive drilling plans and geographic area analysis strategies to provide for orderly development of oil and gas fields;

(III) Minimizing surface disturbance and fragmentation in important wildlife habitat by incorporating appropriate best management practices:

(A) In orders or rules establishing drilling units or allowing the drilling of additional wells in drilling units pursuant to section 34-60-116;

(B) In orders approving agreements for development or unit operations pursuant to section 34-60-118; and

(C) On a site-specific basis, as conditions of approval to a permit to drill pursuant to section 34-60-106 (1)(f).

(4) Repealed.

Source: L. 2007: Entire section added, p. 1329, § 3, effective July 1. **L. 2008:** IP(3)(d) amended, p. 1034, § 2, effective May 21. **L. 2012:** (3)(a) and IP(3)(d) amended, (HB 12-

1317), ch. 248, p. 1235, § 91, effective June 4. **L. 2019:** (3)(b) amended and (4) repealed, (SB 19-181), ch. 120, p. 520, § 16, effective April 16.

34-60-129. Coalbed methane seepage - fund created - repeal. (Repealed)

Source: L. 2007: Entire section added, p. 1586, § 1, effective May 31.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2010. (See L. 2007, p. 1586.)

34-60-130. Reporting of spills - rules. (1) If one barrel or more of oil or exploration and production waste is spilled outside of berms or other secondary containment, the spill shall be reported within twenty-four hours after the discovery of the spill, to:

(a) The commission; and

(b) The entity with jurisdiction over emergency response within the local municipality, if the spill occurred within a municipality, or the local county if the spill did not occur within a municipality.

(2) The spill report must include any available information concerning the type of waste involved in the spill.

(3) The commission may promulgate rules to implement this section.

Source: L. 2013: Entire section added, (HB 13-1278), ch. 188, p. 759, § 1, effective August 7.

34-60-131. No land use preemption. Local governments and state agencies, including the commission and agencies listed in section 34-60-105 (1)(b), have regulatory authority over oil and gas development, including as specified in section 34-60-105 (1)(b). A local government's regulations may be more protective or stricter than state requirements.

Source: L. 2019: Entire section added, (SB 19-181), ch. 120, p. 520, § 17, effective April 16.

34-60-132. Disclosure of chemicals used in downhole oil and gas operations - chemical disclosure lists - community notification - reports - definitions - rules - repeal. (1) As used in this section, unless the context otherwise requires:

(a) (I) "Additive" means a chemical or combination of chemicals added to a base fluid for use in a hydraulic fracturing treatment.

(II) "Additive" includes proppants.

(b) "Base fluid" means the continuous phase fluid type, such as water, used in a hydraulic fracturing treatment.

(c) "Chemical" means any element, chemical compound, or mixture of elements or chemical compounds that has a specific name or identity, including a Chemical Abstracts Service number.

(d) "Chemical Abstracts Service number" means the unique numerical identifier assigned by the Chemical Abstracts Service to a chemical.

(e) "Chemical disclosure information" means the information disclosed to the commission under subsections (2)(a)(I) and (3)(a)(I) of this section.

(f) "Chemical disclosure list" means a list of chemicals used in downhole operations at a well site.

(g) "Chemical disclosure website" means a website that is capable of displaying chemical disclosure lists and can be accessed by the public.

(h) (I) "Chemical product" means any product that consists of one or more chemicals and is sold or distributed for use in downhole operations in the state.

(II) "Chemical product" includes additives, base fluids, and hydraulic fracturing fluids.

(III) "Chemical product" does not include the structural and mechanical components of a well site where downhole operations are being conducted.

(i) (I) "Direct vendor" means any distributor, supplier, or other entity that sells or supplies one or more chemical products directly to an operator or service provider for use at a well site.

(II) "Direct vendor" does not include entities that manufacture, produce, or formulate chemical products for further manufacture, formulation, sale, or distribution by third parties prior to being supplied directly to operators or service providers.

(j) "Discloser" means an operator, any service provider using one or more chemical products in the course of downhole operations, and any direct vendor that provides one or more chemical products directly to the operator or service provider for use at a well site.

(k) "Division" means the division of parks and wildlife in the department of natural resources.

(l) "Downhole operations" means oil and gas production operations that are conducted underground.

(m) "Health-care professional" means a physician, physician assistant, nurse practitioner, registered nurse, or emergency medical service provider licensed or certified by the state.

(n) "High-priority habitat" means habitat areas identified by the division where measures to avoid, minimize, and mitigate adverse impacts to wildlife have been identified to protect breeding, nesting, foraging, migrating, or other uses by wildlife.

(o) "Hydraulic fracturing fluid" means the fluid, including any base fluid and additives, used to perform a hydraulic fracturing treatment.

(p) "Hydraulic fracturing treatment" means all stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure, which treatment is expressly designed to initiate or propagate fractures in an underground geologic formation to enhance the production of oil and gas.

(q) "Manufacturer" means a person or entity that makes, assembles, or otherwise generates a chemical product or whose trade name is affixed to a chemical product.

(r) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" has the meaning set forth in section 25-5-1302 (7).

(s) "Proppants" means materials inserted or injected into an underground geologic formation during a hydraulic fracturing treatment that are intended to prevent fractures from closing.

(t) "Public water systems" has the meaning set forth in section 25-1.5-201 (1).

(u) "Trade secret" has the meaning set forth in section 7-74-102 (4).

(v) "Type III aquifer" means an aquifer that consists of unconsolidated geologic material, including alluvial, colluvial, or other consolidated materials.

(w) "Well site" means the area that is directly disturbed during oil and gas operations.

(2) **Discloser chemical disclosure information and declaration.** (a) On and after July 31, 2023, and subject to subsection (2)(b) of this section, a discloser that sells or distributes a chemical product for use in downhole operations in the state or that uses a chemical product in downhole operations in the state must:

(I) Disclose to the commission:

(A) The trade name of the chemical product; and

(B) A list of the names and Chemical Abstracts Service numbers of each chemical used in the chemical product; and

(C) If a discloser believes that a chemical constituent of a chemical product is a trade secret or is proprietary information, nevertheless disclose the chemical constituent; and

(II) Provide a written declaration to the commission that the chemical product contains no intentionally added PFAS chemicals.

(b) (I) (A) For disclosers that were already selling or distributing a chemical product for use in downhole operations in the state before July 31, 2023, or that were using the chemical product before July 31, 2023, the information and declaration required to be provided pursuant to subsection (2)(a) of this section must be provided to the commission at least thirty days before July 31, 2023.

(B) This subsection (2)(b)(I) is repealed, effective July 1, 2024.

(II) For disclosers that begin to sell, distribute, or use a chemical product for use in downhole operations in the state on or after July 31, 2023, the information and declaration required to be provided pursuant to subsection (2)(a) of this section must be provided to the commission at least thirty days before the discloser begins selling, distributing, or using the chemical product.

(c) The commission shall ensure that the information and declaration required to be provided under subsection (2)(a) of this section is provided to the commission.

(d) If a manufacturer does not provide the information described in subsection (2)(a)(I) of this section for a chemical product that it sells or distributes for use in downhole operations in the state to a discloser upon the request of the discloser or the commission, the manufacturer must provide the commission with a trade secret form of entitlement, as determined by the commission by rule, for the chemical product. At a minimum, the manufacturer must include in the trade secret form of entitlement for the chemical product:

(I) The name of each chemical used in the chemical product; and

(II) The Chemical Abstracts Service number of each chemical used in the chemical product.

(e) If, after making a request to the manufacturer of the chemical product pursuant to subsection (2)(d) of this section, a discloser is unable to disclose the information described in subsection (2)(a)(I) of this section, the discloser shall disclose to the commission:

(I) The name of the chemical product's manufacturer;

(II) The chemical product's trade name;

(III) The amount or weight of the chemical product; and

(IV) A safety data sheet for the chemical product, if it is available for disclosure by the discloser and provides the information described in subsection (2)(a)(I) of this section.

(f) In the event that the discloser is unable to disclose the information described in subsection (2)(a)(I) of this section, the commission shall obtain the information described in subsection (2)(a)(I) of this section from the manufacturer.

(3) **Operator chemical disclosure information - declaration.** (a) On and after July 31, 2023, and subject to subsection (3)(b) of this section, an operator of downhole operations using a chemical product must:

(I) Disclose to the commission:

(A) The date of commencement of downhole operations;

(B) The county of the well site where downhole operations are being or will be conducted;

(C) The unique numerical identifier assigned by the American Petroleum Institute to the well where downhole operations are being or will be conducted and the US well number assigned to the well where downhole operations are being or will be conducted; and

(D) The trade names and quantities of any chemical products the operator used in downhole operations; and

(II) Provide a written declaration to the commission that the chemical product contains no intentionally added PFAS chemicals.

(b) (I) (A) For a downhole operation that commenced before July 31, 2023, and that will be ongoing on July 31, 2023, the information and declaration required to be provided

pursuant to subsection (3)(a) of this section must be provided to the commission within one hundred twenty days after July 31, 2023.

(B) This subsection (3)(b)(I) is repealed, effective July 1, 2024.

(II) For a downhole operation that commences on or after July 31, 2023, the information and declaration required to be provided pursuant to subsection (3)(a) of this section must be provided to the commission within one hundred twenty days after the commencement of the downhole operation.

(c) The commission shall ensure that the information and declaration required to be provided under subsection (3)(a) of this section is provided to the commission.

(4) **Change in chemical disclosure information.** If there is a change in the information provided under subsection (2)(a)(I) or (3)(a)(I) of this section, the discloser or operator, or in the case of disclosure under subsection (2)(d) of this section, the manufacturer, must submit the change to the commission within thirty days after the date the discloser, manufacturer, or operator first knew of the change.

(5) **Chemical disclosure lists.** (a) The commission shall use the chemical disclosure information to create a chemical disclosure list for each applicable well site.

(b) (I) The commission shall include in the chemical disclosure list an alphabetical list of the names and Chemical Abstracts Service numbers of each chemical used in downhole operations at the well site.

(II) Notwithstanding any law to the contrary, the commission shall include the names and Chemical Abstracts Service numbers of all chemicals used in downhole operations in the chemical disclosure list and shall not protect the names or Chemical Abstracts Service numbers of any chemical as a trade secret or proprietary information. Any formulas and processes continue to have trade secret protections.

(c) The commission shall not include in the chemical disclosure list:

(I) The trade name of a chemical product used in downhole operations at the well site; or

(II) The total amount of a chemical in a chemical product.

(d) No later than thirty days after an operator makes the disclosures required under subsection (3) of this section, the commission shall:

(I) Post the chemical disclosure list on the chemical disclosure website and include the date of the submission of the chemical disclosure list to the commission in the post; and

(II) Provide the chemical disclosure list to the operator of the applicable well.

(e) The commission shall:

(I) Post an updated chemical disclosure list if there are any notifications received from a discloser, manufacturer, or operator under subsection (4) of this section and include the date of the notification by the discloser, manufacturer, or operator in the post; and

(II) Ensure that:

(A) All chemical disclosure lists and updated chemical disclosure lists remain viewable by the public;

(B) The chemical disclosure website is searchable by chemical, date of submission or update of a chemical disclosure list, name and address of the operator, and county of the well site; and

(C) The chemical disclosure website allows members of the public to download chemical disclosure lists in an electronic, delimited format.

(6) **Community notification.** (a) On or before July 31, 2023, and subject to subsection (6)(b) of this section, an operator shall provide the chemical disclosure list to:

(I) All owners of minerals that are being developed at the well site;

(II) All surface owners, building unit owners, and residents, including tenants of both residential and commercial properties, that are within two thousand six hundred forty feet of the well site;

(III) The state land board if the state owns minerals that are being developed at the well site;

(IV) The federal bureau of land management if the United States owns the minerals that are being developed at the well site;

(V) The Southern Ute Indian tribe if the minerals being developed at the well site are within the exterior boundary of the tribe's reservation and are subject to the jurisdiction of the commission;

(VI) All schools, child care centers, and school governing bodies within two thousand six hundred forty feet of the well site;

(VII) Police departments, fire departments, emergency service agencies, and first responder agencies that have a jurisdiction that includes the well site;

(VIII) Local governments that have a jurisdiction within two thousand six hundred forty feet of the well site;

(IX) The administrator of any public water system that operates:

(A) A surface water public water system intake that is located fifteen stream miles or less downstream from the well site;

(B) A groundwater under the direct influence of a surface water public water system supply well within two thousand six hundred forty feet of the well site; and

(C) A public water system supply well completed in a type III aquifer within two thousand six hundred forty feet of the well site; and

(X) The division if:

(A) There is a high-priority habitat area within one mile of the well site; or

(B) There is a state wildlife area, as defined in section 33-1-102 (42), or a state park or recreation area within two thousand six hundred forty feet of the well site.

(b) The chemical disclosure list must be disclosed in accordance with subsection (6)(a) of this section within thirty days after the operator's receipt of the chemical disclosure list from the commission.

(7) **Reporting to the general assembly.** (a) (I) The commission shall prepare an annual report that includes a list of the chemicals used in downhole operations in the state in the prior calendar year.

(II) The commission shall present the annual report to the transportation and energy committee of the senate and the energy and environment committee of the house of representatives, or their successor committees, during the committees' hearings held prior to the 2026 regular session, and each session thereafter, of the general assembly under the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2. The commission shall also post the report on the commission's website.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the requirement to report to the legislative committees continues indefinitely.

(8) **Rules.** The commission may promulgate rules that are necessary for the implementation and administration of this section.

(9) **Local governments.** Nothing in this section or the rules promulgated by the commission pursuant to this section limits a local government from enacting or enforcing any ordinance, regulation, or other law related to the disclosure of any chemical product.

(10) **Collection of chemical disclosure information under other provisions of law.** Notwithstanding any law to the contrary, nothing in this section or the rules promulgated by the commission pursuant to this section prevents the commission, the state, or a local

government from collecting chemical disclosure information from disclosers, manufacturers, or operators under any other provision of law.

Source: L. 2022: Entire section added, (HB 22-1348), ch. 478, p. 3479, § 2, effective June 8. **L. 2023:** (5)(b) amended, (HB 23-1301), ch. 303, p. 1842, § 82, effective August 7.

Cross references: For the legislative declaration in HB 22-1348, see section 1 of chapter 478, Session Laws of Colorado 2022.

34-60-133. Orphaned wells mitigation enterprise - creation - powers and duties - enterprise board created - mitigation fees - cash fund created - rules - definitions. (1) **Enterprise created.** (a) The orphaned wells mitigation enterprise is created in the department for the purpose of:

(I) Imposing and collecting mitigation fees;

(II) Funding the plugging, reclaiming, and remediating of orphaned wells in the state;

(III) Ensuring that the costs associated with plugging, reclaiming, and remediating orphaned wells are borne by operators in the form of mitigation fees; and

(IV) Determining the amount of mitigation fees.

(b) The enterprise board, in consultation with the commission, shall administer the enterprise in accordance with this section.

(c) (I) The enterprise constitutes an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants, as defined in section 24-77-102 (7), from all Colorado state and local governments combined. So long as it constitutes an enterprise, the enterprise is not a district for purposes of section 20 of article X of the state constitution.

(II) The enterprise is authorized to issue revenue bonds for the expenses of the enterprise, secured by revenue of the enterprise.

(2) **Powers and duties.** In addition to any other powers and duties specified in this section, the enterprise board has the following general powers and duties on behalf of the enterprise:

(a) To adopt procedures for conducting its affairs;

(b) To acquire, hold title to, and dispose of real and personal property;

(c) In consultation with the director of the commission or the director's designee, to employ and supervise individuals, professional consultants, and contractors as are necessary in its judgment to carry out its business purposes;

(d) To contract with any public or private entity, including state agencies, consultants, and the attorney general's office, for professional and technical assistance, office space and administrative services, advice, and other services related to the conduct of the affairs of the enterprise;

(e) To seek, accept, and expend gifts, grants, donations, or other payments from private or public sources for the purposes of this section, so long as the total amount of all grants from Colorado state and local governments received in any state fiscal year is less than ten percent of the enterprise's total annual revenue for the state fiscal year. The enterprise shall transmit any money received through gifts, grants, donations, or other payments to the state treasurer, who shall credit the money to the fund.

(f) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers and duties granted by this section.

(3) **Enterprise board created - membership - repeal.** (a) The orphaned wells mitigation enterprise board is created to administer the enterprise. The enterprise board includes the following five members:

(I) The chair of the commission;

(II) The director of the commission or the director's designee;

(III) An individual with substantial experience in the oil and gas industry, to be appointed by the governor and confirmed by the senate;

(IV) A local government official, preferably from a jurisdiction that has oil and gas development and orphaned wells, to be appointed by the governor and confirmed by the senate; and

(V) An individual with formal training or substantial experience in land reclamation projects, to be appointed by the governor and confirmed by the senate.

(b) Repealed.

(c) The members of the enterprise board described in subsections (3)(a)(III), (3)(a)(IV), and (3)(a)(V) of this section shall each serve terms of three years; except that the initial term of the member appointed pursuant to subsection (3)(a)(III) of this section is one

year, and the initial term of the member appointed pursuant to subsection (3)(a)(IV) of this section is two years. In the event of a vacancy, the governor may appoint an individual to complete the term of the member whose seat has become vacant.

(d) An individual may be appointed as a member of the enterprise board pursuant to subsection (3)(a)(III), (3)(a)(IV), or (3)(a)(V) of this section an unlimited number of times.

(e) Enterprise board members serving pursuant to subsections (3)(a)(III), (3)(a)(IV), and (3)(a)(V) of this section may receive compensation from the department on a per diem basis for reasonable expenses actually incurred in the performance of duties required of enterprise board members under this section.

(f) The governor shall select a member of the enterprise board to serve as chair of the enterprise board.

(4) **Enterprise board - duties.** In addition to administering the enterprise, at least annually, the enterprise board shall:

(a) Consider whether the amounts of the mitigation fees should be increased or reduced, based on current circumstances and reasonably anticipated future expenditures from the fund;

(b) If the enterprise board determines that an increase or reduction of the mitigation fee amounts is warranted, adjust the mitigation fee amounts; except that the enterprise board shall not set the fee amounts in an amount that results in a violation of subsection (6)(b) of this section; and

(c) Advise the commission of the outcome of the enterprise board's deliberations pursuant to this subsection (4).

(5) **Mitigation fees.** (a) On or before August 1, 2022; on or before April 30, 2023; and on or before April 30 each year thereafter, each operator shall pay a mitigation fee to the enterprise for each well of an operator that has been spud but is not yet plugged and abandoned, in accordance with rules of the commission. Mitigation fees due by August 1, 2022, shall be paid in the following amounts:

(I) For operators with production that is equal to or less than a threshold to be determined by rules of the commission, one hundred twenty-five dollars for each well; and

(II) For operators with production that exceeds a threshold to be determined by rules of the commission, two hundred twenty-five dollars for each well.

(b) Mitigation fees paid after August 1, 2022, shall be paid in the amounts described in subsection (5)(a) of this section, as such amounts may be adjusted by the enterprise board pursuant to subsection (4) of this section.

(c) The enterprise shall transfer all money collected as mitigation fees pursuant to this subsection (5) to the state treasurer, who shall credit the money to the fund.

(6) **Cash fund.** (a) The orphaned wells mitigation enterprise cash fund is created in the state treasury. The fund consists of:

(I) Money received as mitigation fees;

(II) Any money received from the issuance of revenue bonds, as described in subsection (1)(c)(II) of this section;

(III) Any gifts, grants, or donations received pursuant to subsection (2)(e) of this section; and

(IV) Any other money that the general assembly may appropriate or transfer to the fund.

(b) The total amount of money credited to the fund as mitigation fees may not exceed one hundred million dollars in the first five fiscal years of the enterprise, beginning with the 2022-23 state fiscal year.

(c) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and shall not be credited or transferred to the general fund.

(d) Money credited to the fund is continuously appropriated to the fund for use by the enterprise and shall be expended to:

(I) Provide plugging, reclaiming, and remediating services at the request of the director of the commission;

(II) Pay the enterprise's reasonable and necessary operating expenses; and

(III) Otherwise exercise the enterprise's powers and perform its duties as authorized by this section.

(7) **Rules.** The commission shall promulgate rules for the implementation of subsection (5)(a) of this section and as may be otherwise necessary to implement this section.

(8) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Department" means the department of natural resources.

(b) "Enterprise" means the orphaned wells mitigation enterprise created in subsection (1) of this section.

(c) "Enterprise board" means the orphaned wells mitigation enterprise board created in subsection (3) of this section.

(d) "Fund" means the orphaned wells mitigation enterprise cash fund created in subsection (6) of this section.

(e) "Mitigation fee" means a mitigation fee authorized and imposed pursuant to subsection (5) of this section.

(f) "Orphaned well" means an oil and gas well, location, or facility in the state for which no owner or operator can be found or the owner or operator is unwilling or unable to pay the costs of plugging, reclaiming, and remediating.

Source: L. 2022: Entire section added, (SB 22-198), ch. 331, p. 2325, § 2, effective July 1.

Editor's note: Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective July 1, 2023. (See L. 2022, p. 2325.)

Cross references: For the legislative declaration in SB 22-198, see section 1 of chapter 331, Session Laws of Colorado 2022.

34-60-134. Reporting of water used in oil and gas operations - cumulative reporting - definitions - rules - repeal. (1) **Definitions.** As used in this section and in section 34-60-135, unless the context otherwise requires:

(a) "Consortium" means the Colorado produced water consortium created in section 34-60-135 (2)(a).

(b) "Disproportionately impacted community" has the meaning set forth in section 24-4-109 (2)(b)(II).

(c) (I) "Produced water" means water, including the water's mineral and chemical components, in or introduced to a geological formation, that is coproduced with oil or natural gas.

(II) "Produced water" includes flowback water, excluding proppants returned to the surface.

(d) "Recycled or reused produced water" means produced water that is reconditioned into a reusable form or that is reused without reconditioning.

(2) **Well reporting - rules.** Beginning September 1, 2023, operators shall report to the commission on a monthly basis, in a manner that provides for concurrent reporting with required production reporting, for each oil and gas well:

(a) The volume, expressed in barrels, of all fresh water used downhole;

(b) The volume, expressed in barrels, of all recycled or reused produced water used downhole;

(c) The volume, expressed in barrels, of all produced water that is produced from the well and the volume, expressed in barrels, of the produced water removed from the oil and gas location for disposal, including:

(I) The disposal method, as defined by the commission by rule; and

(II) The disposal location, including facility identification, if applicable; and

(d) The volume, expressed in barrels, of all produced water that is produced from the well and:

(I) Recycled or reused in another well at the same oil and gas location; and

(II) Removed from the oil and gas location for recycling or reuse in oil and gas operations at a different oil and gas location, including for use by another operator.

(3) **Oil and gas location reporting - rules.** (a) Beginning January 1, 2024, an operator shall report to the commission, on a quarterly basis, for each oil and gas location at which the operator conducted oil and gas operations in the previous reporting period:

(I) The volume, expressed in barrels, and whether the fresh water was acquired from industrial, commercial, municipal, or agricultural water sources for use in oil and gas operations at the oil and gas location;

(II) The volume, expressed in barrels, and source of all recycled or reused water used in oil and gas operations at the oil and gas location;

(III) The volume, expressed in barrels, of all produced water disposed of from the oil and gas location, including:

(A) The disposal method, as defined by the commission by rule; and

(B) The disposal location, including facility identification, if applicable;

(IV) The volume, expressed in barrels, of all produced water that is removed from the oil and gas location for recycling or reuse in oil and gas operations, including by another oil and gas operator; and

(V) The total volume, expressed in barrels, of all water produced from all wells at the oil and gas location in each month of the reporting period.

(b) An operator shall:

(I) File the report required under subsection (3)(a) of this section no later than forty-five days after the end of the previous calendar quarter; and

(II) Include in each report filed pursuant to subsection (3)(a) of this section the total amounts of all fresh water, produced water, and recycled or reused produced water managed at the oil and gas location for any purpose. Information reported under this subsection (3)(b)(II) does not include storm water.

(4) **Scope of report - operational lifetime of a well.** An operator's produced water reports described in subsections (2) and (3) of this section must describe all water produced or used throughout the operational lifetime of a well, beginning with site construction, drilling, completion, stimulation and production operations, associated plugging and abandonment, facility decommissioning, remediation, and reclamation.

(5) **Rules.** (a) For the purpose of collecting the data required by subsections (2) and (3) of this section, the commission may adopt rules authorizing operators to include information in their reports that is not otherwise reported pursuant to existing commission rules.

(b) The commission shall not adopt a rule designating the data required pursuant to subsection (5)(a) of this section as confidential information that an operator may redact when reporting the information to the commission.

(c) (I) On or before December 31, 2024, the commission shall adopt rules to require a statewide reduction in fresh water usage, and a corresponding increase in usage of recycled or reused produced water, at oil and gas locations. The rules must not apply to activities occurring within the exterior boundaries of an Indian reservation located within the state.

(II) In adopting rules pursuant to subsection (5)(c)(I) of this section, the commission shall consider:

(A) The data in reports filed with the commission pursuant to subsections (2) and (3) of this section; and

(B) Recommendations that the consortium develops.

(d) The rules adopted pursuant to this subsection (5) must include:

(I) Requirements for new oil and gas development plans and substantial modifications to previously approved permits to include a plan specifying the methods and locations for treatment of the produced water, quantifying recycled or reused produced water used in place of fresh water, describing emission controls associated with produced water treatment, and including any other requirements the commission determines are necessary for implementation of this section;

(II) A prohibition against placement of a new centralized produced water storage or treatment facility in a disproportionately impacted community;

(III) A requirement that an operator quantify and report, for each oil and gas location, the vehicle miles traveled in relation to fresh water and produced water management, including vehicle miles traveled for the recycling and reuse of produced water.

(e) The rules adopted pursuant to subsection (5)(c) of this section:

(I) Must:

(A) Require for each oil and gas production basin an iterative and consistent increase in the use of recycled or reused produced water without increasing emissions associated with oil and gas operations; and

(B) Establish, based on recommendations of the consortium, an iterative and consistent schedule of dates that will significantly increase the usage of recycled or reused produced water and decrease the amount of fresh water utilized in oil and gas operations in the state, while ensuring the protection of public health, safety, and welfare; the environment; and wildlife resources. The consortium shall review the dates annually to ensure that the dates continue to represent significant advancement of the goals of this section, taking into consideration population dynamics, improvements in technology, research, best management practices, and infrastructure development around produced water.

(II) May include oil-and-gas-basin-specific benchmarks to comply with the requirements established by rule pursuant to subsection (5)(e)(I) of this section.

(6) **Cumulative impacts reporting.** The commission shall include in its annual reporting on cumulative impacts of oil and gas operations in the state information reported pursuant to this section.

(7) (a) On or before April 1, 2025, the commission shall submit a report to the house of representatives energy and environment committee and the senate transportation and energy committee, or their successor committees, summarizing the reports developed pursuant to this section.

(b) This subsection (7) is repealed, effective July 1, 2025.

Source: L. 2023: Entire section added, (HB 23-1242), ch. 435, p. 2556, § 2, effective June 7.

Cross references: For the legislative declaration in HB 23-1242, see section 1 of chapter 435, Session Laws of Colorado 2023.

34-60-135. Colorado produced water consortium - created - membership - recommendations - definitions - review of functions - repeal. (1) (a) As used in this section, unless the context otherwise requires:

(I) "Beneficial use" has the meaning set forth in section 37-92-103 (4).

(II) "Department" means the department of natural resources.

(III) "Executive director" means the executive director of the department.

(IV) "Governing body" means the governing body of the consortium appointed pursuant to subsection (3)(a) of this section to appoint members of the consortium.

(V) "Local government" means a statutory or home rule city, city and county, or county.

(VI) "Nontributary groundwater" has the meaning set forth in section 37-90-103 (10.5).

(VII) "State institution of higher education" has the meaning set forth in section 23-18-102 (10).

(VIII) "Water right" has the meaning set forth in section 37-92-103 (12).

(b) Definitions in section 34-60-134 (1) apply to terms as they are used in this section.

(2) (a) There is created in the department the Colorado produced water consortium to make recommendations that are protective of public health, safety, and welfare; the environment; and wildlife with regard to:

(I) An informed path for the recycling and reuse of produced water within, and potentially outside of, oil and gas operations in the state; and

(II) Measures to address barriers associated with the utilization of produced water.

(b) The consortium has no role within the exterior boundaries of an Indian reservation located within the state.

(c) The primary goal of the consortium is to help reduce the consumption of fresh water within oil and gas operations. The consortium shall bring together the following groups to collaborate on working toward that goal:

(I) State and federal agencies;

(II) Research institutions;

(III) State institutions of higher education;

(IV) Affected and interested nongovernmental organizations;

(V) Local governments;

(VI) Affected industries;

(VII) Environmental justice organizations;

(VIII) Disproportionately impacted community members; and

(IX) Other interested parties.

(3) (a) (I) Except as provided in subsection (3)(a)(IV) of this section, a governing body of the consortium shall make appointments to the consortium in accordance with this subsection (3). The members of the governing body also serve as members of the consortium.

(II) The executive director or the executive director's designee shall appoint the following three individuals to serve as the governing body and members of the consortium:

(A) One representative of the commission;

(B) One representative of the division of water resources in the department; and

(C) One representative from the Colorado department of public health and environment.

(III) The governing body shall appoint the following twenty-two members of the consortium:

(A) Four representatives from a state or federal agency, other than a commissioner of the commission, associated with the regulation of produced water, including at least one member from the Colorado department of public health and environment. A staff person for the commission may be appointed pursuant to this subsection (3)(a)(III)(A).

(B) Four representatives from research institutions or state institutions of higher education with experience in produced water;

(C) Four representatives from environmental nongovernmental organizations that engage in work and advocate for policies related to produced water;

(D) Four representatives from the oil and gas industry, with one member appointed from each of the following basins: The Denver-Julesburg oil and gas basin; the Piceance oil and gas basin; the San Juan oil and gas basin; and the Raton oil and gas basin;

(E) Two representatives who serve on a governing body of a local government, who shall be appointed with consideration of the need for geographic representation of areas of the state that have current or anticipated recycled or reused produced water; and

(F) Four representatives with expertise and experience in produced water.

(IV) The president of the senate and the speaker of the house of representatives shall appoint six members of the consortium as follows:

(A) Three members, each from a nongovernmental organization in the state that works on and advocates for policies related to environmental justice and conservation, two of whom are appointed by the president of the senate and one of whom is appointed by the speaker of the house of representatives; and

(B) Three members, each of whom must be from a nongovernmental organization in the state that works with and advocates for disproportionately impacted communities and communities of color or must reside in a disproportionately impacted community, one of whom is appointed by the president of the senate and two of whom are appointed by the speaker of the house of representatives.

(b) Any vacancy in membership of the consortium shall be filled as soon as practicable in accordance with the appointment process set forth in subsection (3)(a)(III) or (3)(a)(IV) of this section.

(c) The governing body shall call the first meeting of the consortium, at which meeting the members of the consortium shall elect a member to serve as chair of the consortium. The chair of the consortium serves for two years, and the members of the consortium elect a new chair as needed.

(d) (I) Members shall be reimbursed for actual and necessary expenses incurred while performing official duties, together with mileage, at the rate at which members of the general assembly are reimbursed pursuant to section 2-2-317. All consortium members are entitled to receive fifty dollars for each meeting attended during the 2023-24 state fiscal year; except that members who are appointed under subsection (3)(a)(IV)(B) of this section and

reside in a disproportionately impacted community are eligible to receive an additional one hundred fifty dollars for each meeting attended during the 2023-24 state fiscal year.

(II) A member of the consortium who, as part of the member's typically assigned, regular job duties, receives professional compensation for the member's participation in a consortium meeting is not eligible for the additional per diem for representatives of a disproportionately impacted community pursuant to subsection (3)(d)(I) of this section.

(III) The director of the consortium hired pursuant to subsection (3)(e) of this section shall annually adjust the per diem amounts set forth in subsection (3)(d)(I) of this section based on the annual percentage change in the United States department of labor's bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its successor index.

(IV) The director of the consortium shall determine the form and manner by which a consortium member may request expense reimbursement, mileage reimbursement, or a per diem allowance.

(e) The executive director shall hire a director and a director of research to assist the consortium as follows:

(I) The director of the consortium shall provide administrative support; coordinate meetings and membership; write grants; prepare the consortium budget; contract for analyses and studies; and interact with and report to agencies and the general assembly regarding policies, rule-making proceedings, and legislation regarding reuse, recycling, and beneficial use of produced water;

(II) The director of research for the consortium shall manage academic analyses, research, pilot projects, and case studies for the consortium.

(4) The consortium shall:

(a) Provide recommendations to state agencies and the general assembly as follows:

(I) On or before May 1, 2024, how state and federal agencies can better coordinate regulatory policies related to produced water;

(II) On or before September 1, 2024, topics related to produced water;

(III) On or before November 1, 2024, any legislation or agency rules needed to remove barriers to the safe recycling and reuse of produced water in the state, taking into consideration:

(A) Environmental justice issues;

(B) Any legal issues that may affect the recycling and reuse of produced water;

(C) Testing standards and procedures for treatment of produced water for both conventional and nonconventional oil and gas exploration and development;

(D) Research gaps associated with the treatment of produced water, including gaps in addressing emissions from produced water treatment and storage and any other deficiencies in the treatment of produced water;

(E) Water sharing agreements; and

(F) Infrastructure and storage for produced water reuse and recycling, specifically addressing new or existing pits;

(IV) On or before December 1, 2024, short- and long-term produced water reuse and recycling goals for the state and contemporaneous decreases in fresh water use;

(b) Participate in relevant state agency rule-making proceedings regarding produced water; except that the consortium shall not participate as a party in any rule-making proceeding;

(c) On or before March 1, 2024, develop guidance documents and case studies to promote best practices for in-field recycling and reuse of produced water throughout the state;

(d) On or before July 1, 2024, based on data reported under section 34-60-134, analyze and report on current produced water infrastructure, storage, and treatment facilities within the different oil and gas production basins in the state, with specific emphasis on opportunities within the Denver-Julesburg oil and gas production basin;

(e) On or before August 1, 2024, analyze and report on the volume of produced water produced in the different oil and gas production basins available for reuse and recycling in comparison to the total volume of water necessary for completion activities in new oil and gas operations;

(f) On or before September 1, 2024, analyze and report on the infrastructure, storage, and technology necessary to achieve different levels of recycling and reuse of produced water in oil and gas production basins throughout the state, with specific emphasis on opportunities within the Denver-Julesburg oil and gas production basin;

(g) On or before July 1, 2025, evaluate analytical and toxicological methods employed during produced water treatment and assess tools used to evaluate produced water and its potential for use outside the oil field; and

(h) On or before April 1, 2024, in the 2024 legislative session and annually thereafter, and notwithstanding section 24-1-136 (11)(a)(I), through the director of the consortium, update the house of representatives energy and environment committee and the senate

transportation and energy committee, or their successor committees, on the consortium's work pursuant to this section.

(5) (a) On or before July 1, 2023, the governing body and membership of the consortium shall be appointed pursuant to subsection (3) of this section.

(b) The consortium shall meet on a monthly basis during the consortium's first year and on a quarterly basis in subsequent years, or more often if needed as determined by the chair of the consortium.

(6) (a) Reports and analyses that the consortium provides to both state agencies and the general assembly must be inclusive of all of the opinions of members of the consortium on the reported topics.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the executive director or the executive director's designee shall include in the annual "SMART Act" departmental presentation, made to a joint committee of the general assembly, pursuant to section 2-7-203 (2) a summary of the consortium's work, including the consortium's recommendations made to the commission and reports prepared pursuant to this section.

(7) This section is repealed, effective September 1, 2030. Before the repeal, this section is scheduled for review in accordance with section 24-34-104.

Source: L. 2023: Entire section added, (HB 23-1242), ch. 435, p. 2560, § 2, effective June 7.

Cross references: For the legislative declaration in HB 23-1242, see section 1 of chapter 435, Session Laws of Colorado 2023.

34-60-136. Biochar in oil and gas well plugging working advisory group - created - members - study by Colorado state university - recommendations for the development of a pilot program - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Biochar" means the solid carbon-rich product made when woody biomass undergoes pyrolysis in an oxygen-depleted atmosphere at approximately eight hundred degrees Celsius.

(b) "Colorado energy office" means the Colorado energy office created in section 24-38.5-101 (1).

(c) "Director" means the director of the commission appointed pursuant to section 34-60-104.5 (1) or the director's designee.

(d) "Environmental justice advisory board" means the environmental justice advisory board created in section 25-1-134 (2)(a).

(e) "Local government" means a home rule or statutory county, municipality, or city and county.

(f) "Pilot program" means the pilot program described in subsection (4)(b) of this section.

(g) "Selected oil and gas wells" means the oil and gas wells selected by the work group pursuant to subsection (4)(c)(II) of this section.

(h) "State forest service" means the Colorado state forest service identified in section 23-31-302.

(i) "University" means Colorado state university established in section 23-31-101.

(j) "Work group" means the biochar in oil and gas well plugging working advisory group created in subsection (2)(a) of this section.

(2) (a) The biochar in oil and gas well plugging working advisory group is created in the commission.

(b) The work group consists of the following members:

(I) A member of the commission's technical staff with expertise in engineering or orphaned wells, appointed by the director;

(II) A member representing the department of public health and environment created in section 24-1-119 (1), appointed by the executive director of the department of public health and environment;

(III) A member representing the Colorado energy office, appointed by the director of the Colorado energy office;

(IV) A member representing the oil and gas industry, appointed by the director;

(V) A member, appointed by the director of the Colorado energy office, representing an environmental advocacy organization with:

(A) A focus on the reduction of greenhouse gas emissions; and

(B) Experience with carbon removal and sequestration solutions;

(VI) A member with expertise in the biochar industry, appointed by the director; and

(VII) A member of the commission, who is the chair of the work group, appointed by the director.

(c) The work group also consists of the following members, who shall participate in the work group in an advisory, nonvoting capacity:

(I) A member representing the state forest service, appointed by the director of the state forest service;

(II) A member representing a biochar manufacturing entity located in the state, appointed by the director;

(III) A member representing a local government who has a demonstrated focus on environmental air quality issues, with climate protection as a demonstrated priority, appointed by the director of the Colorado energy office;

(IV) A member, appointed by the director, representing the federal bureau of land management who has knowledge concerning:

(A) The federal standards for plugging oil and gas wells; and

(B) The opportunities for obtaining federal funding for the pilot program;

(V) A member with expertise in plugging and abandonment operations and methane mitigation from wellbores, appointed by the director;

(VI) A member of the environmental justice advisory board, appointed by the chair of the environmental justice advisory board; and

(VII) A member representing the interests of disproportionately impacted communities, as defined in section 24-4-109 (2)(b)(II), appointed by the chair of the environmental justice advisory board.

(d) The appointing authorities shall make all appointments to the work group no later than July 1, 2023. The members of the work group serve without compensation but shall be reimbursed for expenses incurred by them in the performance of their official duties.

(e) The work group shall conduct meetings as often as necessary to perform the work group's duties pursuant to this section, including consulting and coordinating with the university on the university's duties pursuant to this section.

(3) (a) The university shall:

(I) Review peer-reviewed scientific articles and studies on biochar's capacity to:

(A) Lower greenhouse gas emissions;

(B) Lower chemical leaks;

(C) Remove and sequester carbon;

(D) Lower the carbon footprint in cement;

(E) Add strength to cement; and

(F) Bind chemicals such as methane, benzene, and carbon dioxide from fugitive emissions;

(II) Review any applicable federal laws and laws of other states that address the use of biochar in the plugging of oil and gas wells;

(III) Conduct desk research related to biochar, including geomechanical modeling and calculations to limit variables;

(IV) Conduct laboratory research, including research to characterize:

(A) The mechanical strength, permeability, pore structure, and gas absorption of biochar;

(B) The geochemical reaction of biochar with water from an underground formation; and

(C) The chemical reaction of biochar with cement used in the plugging of oil and gas wells;

(V) Evaluate whether any federal or state programs or private entities could provide funding for the pilot program;

(VI) Assess the costs associated with using biochar in the plugging of an oil and gas well;

(VII) Determine the amount of biochar that is available for use in the state;

(VIII) Examine whether the use of biochar in the plugging of oil and gas wells is consistent with the state's short-term and long-term greenhouse gas and pollution reduction goals, as set forth in section 25-7-102 (2)(g), taking into consideration the emissions of greenhouse gases and other pollutants caused by the production of biochar and the use of biochar in the plugging of oil and gas wells; and

(IX) Determine whether the use of biochar when plugging an oil and gas well:

(A) Could, with verified net permanent removal of atmospheric carbon as established according to internationally recognized standards, allow an operator or other person plugging an oil and gas well to receive legitimate carbon credits or offsets;

(B) Would require any changes to state law to allow the use of biochar in the plugging of an oil and gas well or to allow a state agency to coordinate with applicable federal agencies and other entities in the implementation of the pilot program; and

(C) Would comply, in the case of plugging an oil and gas well owned by the United States or a tribal land trust, with federal law or any other applicable law.

(b) In performing its duties pursuant to subsection (3)(a) of this section, the university shall utilize any applicable existing federal, state, or local programs or funding and may coordinate and consult with other institutions of higher education.

(4) (a) No later than March 1, 2024, the university shall provide an unofficial progress report of its findings pursuant to subsection (3)(a) of this section to the work group.

(b) No later than June 1, 2024, the university shall provide an official report of its findings pursuant to subsection (3)(a) of this section to the work group. If, based on the report, the work group determines that a pilot program to study the use of biochar in the plugging of oil and gas wells would have a positive impact on the health, safety, and welfare of the state and would be consistent with the state's short-term and long-term greenhouse gas and pollution reduction goals, as set forth in section 25-7-102 (2)(g), the work group shall, no later than August 1, 2024, direct the university to make recommendations regarding the development of the pilot program.

(c) The recommendations pursuant to subsection (4)(b) of this section must include recommendations regarding a plan to:

(I) Develop standards for:

(A) Using biochar in the plugging of the selected oil and gas wells;

(B) Monitoring the emissions of the selected oil and gas wells; and

(C) Comparing emissions data from the selected oil and gas wells to emissions data from oil and gas wells that have not been plugged using biochar;

(II) Select oil and gas wells where an operator or other person plugging an oil and gas well will use biochar when plugging the well in accordance with the standards developed pursuant to subsection (4)(c)(I)(A) of this section; and

(III) Continue, after the selected oil and gas wells are plugged, to:

(A) Monitor emissions and compare emissions data from the selected oil and gas wells in accordance with the standards developed pursuant to subsections (4)(c)(I)(B) and (4)(c)(I)(C) of this section;

(B) Assess the condition of the selected oil and gas wells; and

(C) Conduct laboratory testing on the selected oil and gas wells to determine the ability of biochar to absorb or adsorb methane and other chemicals found in a plugged oil and gas well and to determine the best estimate of the long-term durability of biochar when used in the plugging of an oil and gas well.

(d) The recommendations pursuant to subsection (4)(b) of this section must include, at a minimum, recommendations regarding:

(I) The estimated costs to implement the pilot program;

(II) The duration of the pilot program;

(III) A detailed plan for the implementation of the pilot program by the commission;

(IV) A description of any opportunities to work with or receive funding from federal agencies or private entities in the implementation of the pilot program; and

(V) A process for reporting the findings of the pilot program.

(5) No later than December 1, 2024, the university shall submit a draft report describing its recommendations for the development of a pilot program pursuant to subsections (4)(b), (4)(c), and (4)(d) of this section to the work group. No later than December 15, 2024, the university shall:

(a) In consultation with the work group, create a final report that incorporates the work group's comments regarding the draft report; and

(b) Provide a copy of the final report to the director.

(6) The director shall post a copy of the final report described in subsection (5)(b) of this section on the commission's website.

(7) This section is repealed, effective September 1, 2025.

Source: L. 2023: Entire section added, (HB 23-1069), ch. 219, p. 1135, § 2, effective May 18.

Cross references: For the legislative declaration in HB 23-1069, see section 1 of chapter 219, Session Laws of Colorado 2023.

34-60-137. Hydrogen study - report - repeal. (1) The commission shall conduct a study and develop recommendations concerning the regulation and permitting of the underground storage of hydrogen, the transportation of hydrogen through pipelines, and any other underground hydrogen operations related to or interconnected with the commission's directive and regulatory authority in the state. The commission shall develop recommendations that:

(a) Protect public health, safety, and welfare, including protection of the environment and wildlife resources;

(b) Avoid adverse impacts on disproportionately impacted communities, as defined in section 24-4-109 (2)(b)(II); and

(c) Consider any potential cumulative impacts, including impacts on air, water, soil, and the climate, associated with the development of the state's hydrogen resources.

(2) In conducting the study, the commission shall consult with other state agencies, local governments, environmental justice organizations, and other relevant stakeholders.

(3) No later than July 1, 2024, the commission shall:

(a) Prepare a report summarizing the findings of the study, including the recommendations described in subsection (1) of this section;

(b) Post the report on the commission's website; and

(c) Submit the report to the general assembly.

(4) The commission shall present the report described in subsection (3)(a) of this section to the energy and environment committee of the house of representatives and the transportation and energy committee of the senate, or any successor committees, during the 2025 legislative session.

(5) This section is repealed, effective July 1, 2025.

Source: L. 2023: Entire section added, (SB 23-285), ch. 235, p. 1249, § 19, effective July 1.

34-60-138. Pipeline study - report - repeal. (1) The commission shall coordinate with the public utilities commission to conduct a study examining the existing administrative structure for intrastate pipeline siting and safety regulation in the state, including identifying any existing jurisdictional gaps, analyzing existing safety rules, reviewing jurisdictional strategies for the state, and evaluating resource needs for safe and

protective regulation. Based on the findings of the study, the commission shall develop recommendations that:

(a) Protect public health, safety, and welfare, including protection of the environment and wildlife resources;

(b) Avoid adverse impacts on disproportionately impacted communities, as defined in section 24-4-109 (2)(b)(II); and

(c) Consider any potential cumulative impacts arising out of the use and siting of pipelines for current and emerging technologies.

(2) In conducting the study, the commission and the public utilities commission shall consult with other state agencies, local governments, environmental justice organizations, and other relevant stakeholders.

(3) No later than December 1, 2024, the commission shall:

(a) Coordinate with the public utilities commission to prepare a report summarizing the findings of the study, including the recommendations described in subsection (1) of this section;

(b) Post the report on the commission's website; and

(c) Submit the report to the general assembly.

(4) The commission shall present the report described in subsection (3)(a) of this section to the energy and environment committee of the house of representatives and the transportation and energy committee of the senate, or any successor committees, during the 2025 legislative session.

(5) This section is repealed, effective July 1, 2025.

Source: L. 2023: Entire section added, (SB 23-285), ch. 235, p. 1250, § 19, effective July 1.

34-60-139. Methane seepage in Raton basin - study of best management practices and water quality required - repeal. (1) The commission and the water quality control division in the department of public health and environment, in consultation with local governments, shall perform a study that:

(a) Identifies best management practices for capturing methane seepage in the Raton basin of southern Colorado;

(b) Evaluates the quality of water resulting from such methane capture operations; and

(c) Evaluates the potential to preserve and make beneficial use of such water.

(2) The primary objectives of the study described in subsection (1) of this section are to:

(a) Proactively and systematically locate and survey methane gas seepage in the Raton basin;

(b) Document previous areas of seepage;

(c) Calculate any differences in seepage amounts; and

(d) Assess the potential for methane to create hazardous conditions.

(3) The study described in subsection (1) of this section must include:

(a) A survey to identify suspected seepage areas, previous seepage areas, and increases or decreases in seepage;

(b) Detailed mapping of suspected seepage areas;

(c) Sampling and analysis of gas collected from selected seepage areas; and

(d) Sampling and analysis of water from selected water wells and methane capture wells in the Raton basin.

(4) In performing the study described in subsection (1) of this section, the commission and the water quality control division shall coordinate with:

(a) The Colorado energy office created in section 24-38.5-101;

(b) The division of water resources created in the department of natural resources pursuant to section 24-1-124;

(c) The division of mining, reclamation, and safety in the department of natural resources pursuant to section 34-20-103;

(d) The division of parks and wildlife created in the department of natural resources pursuant to section 33-9-104; and

(e) The boards of county commissioners in Las Animas and Huerfano counties.

(5) The commission, in consultation with local governments, shall complete the study described in subsection (1) of this section and submit the study to the agriculture, water, and natural resources committee of the house of representatives and the agriculture

and natural resources committee of the senate, or to any successor committees, on or before June 30, 2025.

(6) This section is repealed, effective July 1, 2025.

Source: L. 2023: Entire section added, (SB 23-186), ch. 333, p. 1995, § 1, effective August 7.