

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0973.01 Thomas Morris x4218

SENATE BILL 19-181

SENATE SPONSORSHIP

Fenberg,

HOUSE SPONSORSHIP

Becker,

Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL PUBLIC WELFARE PROTECTIONS REGARDING**
102 **THE CONDUCT OF OIL AND GAS OPERATIONS, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill enhances local governments' ability to protect public health, safety, and welfare and the environment by clarifying, reinforcing, and establishing their regulatory authority over the surface impacts of oil and gas development.

Current law specifies that local governments have so-called

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

"House Bill 1041" powers, which are a type of land use authority over oil and gas mineral extraction areas, only if the Colorado oil and gas conservation commission (commission) has identified a specific area for designation. **Sections 1 and 2** of the bill repeal that limitation.

Section 3 directs the air quality control commission to adopt rules to:

- ! Require an oil and gas operator of an oil and gas facility to install continuous emission monitoring equipment at the facility to monitor for hazardous air pollutants as specified by the commission by rule, as well as for methane and volatile organic compounds; and
- ! Minimize emissions of methane and other hydrocarbons and nitrogen oxides from the entire oil and gas fuel cycle.

Section 4 clarifies that local governments have land use authority to regulate the siting of oil and gas locations and to regulate land use and surface impacts, including the ability to inspect oil and gas facilities; impose fines for leaks, spills, and emissions; and impose fees on operators or owners to cover the reasonably foreseeable direct and indirect costs of permitting and regulation and the costs of any monitoring and inspection program necessary to address the impacts of development and enforce local governmental requirements.

Section 5 repeals an exemption for oil and gas production from counties' authority to regulate noise.

The remaining substantive sections of the bill amend the "Oil and Gas Conservation Act" (Act). The legislative declaration for the Act states that it is in the public interest to "foster" the development of oil and gas resources in a manner "consistent" with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources; this has been construed to impose a balancing test between fostering oil and gas development and protecting the public health, safety, and welfare. **Section 6** states that the public interest is to "regulate" oil and gas development to "protect" those values.

Currently, the Act defines "waste" to include a diminution in the quantity of oil or gas that ultimately may be produced. **Section 7** excludes from that definition the nonproduction of oil or gas as necessary to protect public health, safety, and welfare or the environment. Section 7 also repeals the requirement that the commission take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts to wildlife resources.

The 9-member commission currently includes 3 members who must have substantial experience in the oil and gas industry and one member who must have training or experience in environmental or wildlife protection. **Section 8** reduces the number of industry members to one and requires one member with training or substantial experience in wildlife protection; one member with training or substantial experience

in environmental protection; one member with training or substantial experience in soil conservation or reclamation; one member who is an active agricultural producer or a royalty owner; and one member with training or substantial experience in public health. **Section 9** requires the director of the commission to hire up to 2 deputy directors.

The Act currently specifies that the commission has exclusive authority relating to the conservation of oil or gas. **Section 10** clarifies that nothing in the Act alters, impairs, or negates the authority of:

- ! The air quality control commission to regulate the air pollution associated with oil and gas operations;
- ! The water quality control commission to regulate the discharge of water pollutants from oil and gas operations;
- ! The state board of health to regulate the disposal of naturally occurring radioactive materials and technologically enhanced naturally occurring radioactive materials from oil and gas operations;
- ! The solid and hazardous waste commission to regulate the disposal of hazardous waste and exploration and production waste from oil and gas operations; or
- ! A local government to regulate land use related to oil and gas operations, including specifically the siting of an oil and gas location.

Currently, an operator first gets a permit from the commission to drill one or more wells within a drilling unit, which is located within a defined area, and then notifies the applicable local government of the proposed development and seeks any necessary local government approval. **Section 11** requires operators to file, with the application for a permit to drill, either: Proof that the operator has already filed an application with the affected local government to approve the siting of the proposed oil and gas location and of the local government's disposition of the application; or proof that the affected local government does not regulate the siting of oil and gas locations. Section 11 also specifies that the commission and the director shall not issue a permit until the commission has promulgated every rule required to be adopted by oil and gas bills enacted in 2019 and the rules have become effective; except that the director may issue a permit if the director determines that the permit does not require additional analysis to ensure the protection of public health, safety, and welfare or the environment or require additional local government or other state agency consultation.

Pursuant to commission rule, an operator may submit a statewide blanket financial assurance of \$60,000 for fewer than 100 wells or \$100,000 for 100 or more wells. Section 11 directs the commission to adopt rules that require financial assurance sufficient to provide adequate coverage for all applicable requirements of the Act. Current law allows the commission to set numerous fees used to administer the Act and sets

a \$200 or \$100 cap on the fees. Section 11 eliminates the caps and requires the commission to set a permit application fee in an amount sufficient to recover the commission's reasonably foreseeable direct and indirect costs in conducting the analysis necessary to assure that permitted operations will be conducted in compliance with all applicable requirements of the Act.

Current law gives the commission the authority to regulate oil and gas operations so as to prevent and mitigate "significant" adverse environmental impacts to the extent necessary to protect public health, safety, and welfare, taking into consideration cost-effectiveness and technical feasibility. Section 11 requires the commission to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations. Section 11 also requires the commission to adopt rules that require alternate location analyses for oil and gas facilities that are proposed to be located near populated areas and that evaluate and address the cumulative impacts of oil and gas development. Finally, section 11 directs the commission to promulgate rules to:

- ! Ensure proper wellhead integrity of all oil and gas production wells, including the use of nondestructive testing of well joints and requiring certification of oil and gas field welders;
- ! Allow public disclosure of flowline information and to evaluate and determine when a deactivated flowline must be inspected before being reactivated; and
- ! Evaluate and determine when inactive and shut-in wells must be inspected before being put into production or used for injection.

Current law authorizes "forced" or "statutory" pooling, a process by which "any interested person", typically an operator who has at least one lease or royalty interest, may apply to the commission for an order to pool oil and gas resources located within a particularly identified drilling unit. After giving notice to interested parties and holding a hearing, the commission can adopt a pooling order to require an owner of oil and gas resources within the drilling unit who has not consented to the application (nonconsenting owner) to allow the operator to produce the oil and gas within the drilling unit notwithstanding the owner's lack of consent. **Section 12** requires that the owners of more than 50% of the mineral interests to be pooled must have joined in the application for a pooling order and that the application include either: Proof that the applicant has already filed an application with the affected local government to approve the siting of the proposed oil and gas facilities and of the local government's disposition of the application; or proof that the affected

local government does not regulate the siting of oil and gas facilities. Section 12 also specifies that the operator cannot use the surface owned by a nonconsenting owner without permission from the nonconsenting owner.

Current law also sets the royalty that a nonconsenting owner is entitled to receive at 12.5% of the full royalty rate until the consenting owners have been fully reimbursed (out of the remaining 87.5% of the nonconsenting owner's royalty) for their costs. Section 12 raises a nonconsenting owner's royalty rate during this pay-back period from 12.5% to 15% and makes a corresponding reduction of the portion of the nonconsenting owner's royalty from which the consenting owners' costs are paid.

Current law requires the commission to ensure that the 2-year average of the unobligated portion of the oil and gas conservation and environmental response fund does not exceed \$6 million and that there is an adequate balance in the environmental response account in the fund to address environmental response needs. **Section 13** directs the commission to ensure that the unobligated portion of the fund does not exceed 50% of total appropriations from the fund for the upcoming fiscal year and that there is an adequate balance in the account to support the operations of the commission and to address environmental response needs.

Section 15 amends preemption law by specifying that both state agencies and local governments have authority to regulate oil and gas operations and establishes that, where there is a conflict in the exercise of that authority, the more protective standard as to health, safety, and welfare, the environment, and wildlife resources controls.

1 *Be it enacted by the General Assembly of the State of Colorado:*
2 **SECTION 1.** In Colorado Revised Statutes, 24-65.1-202, **repeal**
3 (1)(d) as follows:
4 **24-65.1-202. Criteria for administration of areas of state**
5 **interest.** (1) (d) ~~Unless an activity of state interest has been designated~~
6 ~~or identified or unless it includes part or all of another area of state~~
7 ~~interest, an area of oil and gas development shall not be designated as an~~
8 ~~area of state interest unless the state oil and gas conservation commission~~
9 ~~identifies such area for designation.~~
10 **SECTION 2.** In Colorado Revised Statutes, 24-65.1-302, **repeal**

1 (3) as follows:

2 **24-65.1-302. Functions of other state agencies.** (3) Pursuant to
3 ~~section 24-65.1-202 (1)(d), the oil and gas conservation commission of~~
4 ~~the state of Colorado may identify an area of oil and gas development for~~
5 ~~designation by local government as an area of state interest.~~

6 **SECTION 3.** In Colorado Revised Statutes, 25-7-109, **add** (10)
7 as follows:

8 **25-7-109. Commission to promulgate emissions control**
9 **regulations.** (10) (a) THE COMMISSION SHALL ADOPT RULES TO MINIMIZE
10 EMISSIONS OF METHANE AND OTHER HYDROCARBONS, VOLATILE ORGANIC
11 COMPOUNDS, AND OXIDES OF NITROGEN FROM FACILITIES IN ALL
12 SEGMENTS OF THE OIL AND NATURAL GAS SUPPLY CHAIN.

13 (b) (I) THE COMMISSION SHALL REVIEW ITS LEAK DETECTION AND
14 REPAIR RULES FOR OIL AND NATURAL GAS WELL PRODUCTION FACILITIES
15 AND COMPRESSOR STATIONS AND SPECIFICALLY CONSIDER ADOPTING
16 MORE STRINGENT PROVISIONS, INCLUDING:

17 (A) A REQUIREMENT THAT ALL OIL AND NATURAL GAS WELL
18 PRODUCTION FACILITIES MUST CONDUCT, AT A MINIMUM, SEMI-ANNUAL
19 LEAK DETECTION AND REPAIR INSPECTIONS;

20 (B) A REQUIREMENT THAT OWNERS AND OPERATORS OF OIL AND
21 GAS TRANSMISSION PIPELINES AND COMPRESSOR STATIONS MUST INSPECT
22 AND MAINTAIN ALL EQUIPMENT AND PIPELINES ON A REGULAR BASIS; AND

23 (C) A REQUIREMENT THAT OIL AND NATURAL GAS OPERATORS
24 MUST INSTALL AND OPERATE CONTINUOUS METHANE EMISSIONS MONITORS
25 AT FACILITIES WITH LARGE EMISSIONS POTENTIAL, AT MULTI-WELL
26 FACILITIES, AND AT FACILITIES IN CLOSE PROXIMITY TO OCCUPIED
27 DWELLINGS.

1 (II) THE COMMISSION MAY, BY RULE, PHASE IN THE REQUIREMENT
2 TO COMPLY WITH THIS SUBSECTION (10)(b) ON THE BASES OF PRODUCTION
3 CAPABILITY, TYPE AND AGE OF OIL AND GAS FACILITY, AND COMMERCIAL
4 AVAILABILITY OF CONTINUOUS MONITORING EQUIPMENT. IF THE
5 COMMISSION PHASES IN THE REQUIREMENT TO COMPLY WITH THIS
6 SUBSECTION (10)(b), IT SHALL INCREASE THE REQUIRED FREQUENCY OF
7 INSPECTIONS AT FACILITIES THAT ARE SUBJECT TO THE PHASE-IN UNTIL
8 THE FACILITIES ACHIEVE CONTINUOUS EMISSION MONITORING.

9 (c) NOTWITHSTANDING THE GRANT OF AUTHORITY TO THE OIL AND
10 GAS CONSERVATION COMMISSION IN ARTICLE 60 OF TITLE 34, INCLUDING
11 SPECIFICALLY SECTION 34-60-105 (1), THE COMMISSION MAY REGULATE
12 AIR POLLUTION FROM OIL AND GAS OPERATIONS AND OIL AND GAS
13 FACILITIES, INCLUDING DURING CONSTRUCTION, DRILLING, AND
14 COMPLETION ACTIVITIES.

15 **SECTION 4.** In Colorado Revised Statutes, 29-20-104, **amend**
16 (1) introductory portion, (1)(g), and (1)(h); and **add** (1)(i) and (2) as
17 follows:

18 **29-20-104. Powers of local governments - definition.**
19 (1) Except as expressly provided in section 29-20-104.5, the power and
20 authority granted by this section ~~shall~~ DOES not limit any power or
21 authority presently exercised or previously granted. Each local
22 government within its respective jurisdiction has the authority to plan for
23 and regulate the use of land by:

24 (g) Regulating the use of land on the basis of the impact thereof
25 OF THE USE on the community or surrounding areas; and

26 (h) ~~Otherwise planning for and regulating the use of land so as to~~
27 ~~provide planned and orderly use of land and protection of the~~

1 ~~environment in a manner consistent with constitutional rights.~~

2 REGULATING OIL AND GAS OPERATIONS TO ADDRESS:

3 (I) LAND USE;

4 (II) THE MINIMIZATION OF ADVERSE IMPACTS TO PUBLIC HEALTH,
5 SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE. FOR PURPOSES
6 OF THIS SUBSECTION (1)(h)(II), "MINIMIZATION OF ADVERSE IMPACTS"
7 MEANS TO:

8 (A) AVOID ADVERSE IMPACTS FROM OIL AND GAS OPERATIONS;
9 AND

10 (B) MINIMIZE AND MITIGATE THE EXTENT AND SEVERITY OF THOSE
11 IMPACTS THAT CANNOT BE AVOIDED;

12 (III) THE LOCATION AND SITING OF OIL AND GAS FACILITIES AND
13 OIL AND GAS LOCATIONS, AS THOSE TERMS ARE DEFINED IN SECTION
14 34-60-103 (6.2) AND (6.4);

15 (IV) IMPACTS TO PUBLIC FACILITIES AND SERVICES;

16 (V) WATER QUALITY AND SOURCE, NOISE, VIBRATION, ODOR,
17 LIGHT, DUST, AIR EMISSIONS AND AIR QUALITY, LAND DISTURBANCE,
18 RECLAMATION PROCEDURES, CULTURAL RESOURCES, EMERGENCY
19 PREPAREDNESS AND COORDINATION WITH FIRST RESPONDERS, SECURITY,
20 AND TRAFFIC AND TRANSPORTATION IMPACTS;

21 (VI) FINANCIAL SECURITIES, INDEMNIFICATION, AND INSURANCE
22 AS APPROPRIATE TO ENSURE COMPLIANCE WITH THE REGULATIONS OF THE
23 LOCAL GOVERNMENT; AND

24 (VII) ALL OTHER NUISANCE-TYPE EFFECTS OF OIL AND GAS
25 DEVELOPMENT; AND

26 (i) OTHERWISE PLANNING FOR AND REGULATING THE USE OF LAND
27 SO AS TO PROVIDE PLANNED AND ORDERLY USE OF LAND AND PROTECTION

1 OF THE ENVIRONMENT IN A MANNER CONSISTENT WITH CONSTITUTIONAL
2 RIGHTS.

3 (2) TO IMPLEMENT THE POWERS AND AUTHORITY GRANTED IN
4 SUBSECTION (1)(h) OF THIS SECTION, LOCAL GOVERNMENTS HAVE THE
5 AUTHORITY TO:

6 (a) INSPECT ALL FACILITIES SUBJECT TO LOCAL GOVERNMENT
7 REGULATION;

8 (b) IMPOSE FINES FOR LEAKS, SPILLS, AND EMISSIONS; AND

9 (c) IMPOSE FEES ON OPERATORS OR OWNERS TO COVER THE
10 REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS OF PERMITTING
11 AND REGULATION AND THE COSTS OF ANY MONITORING AND INSPECTION
12 PROGRAM NECESSARY TO ADDRESS THE IMPACTS OF DEVELOPMENT AND
13 TO ENFORCE LOCAL GOVERNMENTAL REQUIREMENTS.

14 **SECTION 5.** In Colorado Revised Statutes, 30-15-401, **amend**
15 (1) introductory portion, (1)(m)(II) introductory portion, and (1)(m)(II)(B)
16 as follows:

17 **30-15-401. General regulations - definitions.** (1) In addition to
18 those powers granted by sections 30-11-101 and 30-11-107 and by parts
19 1, 2, and 3 of this article 15, the board of county commissioners ~~has the~~
20 ~~power to~~ MAY adopt ordinances for control or licensing of those matters
21 of purely local concern that are described in the following enumerated
22 powers:

23 (m) (II) Ordinances enacted to regulate noise on public and
24 private property pursuant to ~~subparagraph (I) of this paragraph (m) shall~~
25 SUBSECTION (1)(m)(I) OF THIS SECTION DO not apply to:

26 (B) Property used for: Manufacturing, industrial, or commercial
27 business purposes; AND public utilities regulated pursuant to title 40.

1 C.R.S.; and oil and gas production subject to the provisions of article 60
2 of title 34, C.R.S.

3 **SECTION 6.** In Colorado Revised Statutes, 34-60-102, **amend**
4 (1)(a) introductory portion, (1)(a)(I), and (1)(b) as follows:

5 **34-60-102. Legislative declaration.** (1) (a) It is declared to be in
6 the public interest AND THE COMMISSION IS DIRECTED to:

7 (I) ~~Foster~~ REGULATE the ~~responsible, balanced~~ development
8 ~~production, and utilization~~ of the natural resources of oil and gas in the
9 state of Colorado in a manner ~~consistent with protection of~~ THAT
10 PROTECTS public health, safety, and welfare, including protection of the
11 environment and wildlife resources;

12 (b) It is ~~not~~ NEITHER the intent nor the purpose of this ~~article~~
13 ARTICLE 60 to require or permit the proration or distribution of the
14 production of oil and gas among the fields and pools of Colorado on the
15 basis of market demand. It is the intent and purpose of this ~~article~~
16 ARTICLE 60 to permit each oil and gas pool in Colorado to produce up to
17 its maximum efficient rate of production, subject to the PROTECTION OF
18 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND
19 WILDLIFE RESOURCES AND THE prevention of waste ~~consistent with the~~
20 ~~protection of public health, safety, and welfare, including protection of~~
21 ~~the environment and wildlife resources~~ AS SET FORTH IN SECTION
22 34-60-106 (2.5) AND (3)(a), and subject further to the enforcement and
23 protection of the coequal and correlative rights of the owners and
24 producers of a common source of oil and gas, so that each common owner
25 and producer may obtain a just and equitable share of production
26 ~~therefrom~~ FROM THE COMMON SOURCE.

27 **SECTION 7.** In Colorado Revised Statutes, 34-60-103, **amend**

1 the introductory portion, (5.5), (11), (12), and (13); and **add** (5.3), (6.2),
2 and (6.4) as follows:

3 **34-60-103. Definitions.** As used in this ~~article~~ ARTICLE 60, unless
4 the context otherwise requires:

5 (5.3) "LOCAL GOVERNMENT" MEANS, EXCEPT WITH REGARD TO
6 SECTION 34-60-104 (2)(a)(I), A:

7 (a) MUNICIPALITY OR CITY AND COUNTY WITHIN WHOSE
8 BOUNDARIES AN OIL AND GAS LOCATION IS SITED OR PROPOSED TO BE
9 SITED; OR

10 (b) COUNTY, IF AN OIL AND GAS LOCATION IS SITED OR PROPOSED
11 TO BE SITED WITHIN THE BOUNDARIES OF THE COUNTY BUT IS NOT
12 LOCATED WITHIN A MUNICIPALITY OR CITY AND COUNTY.

13 (5.5) "Minimize adverse impacts" means to: ~~wherever reasonably~~
14 ~~practicable:~~

15 (a) Avoid adverse impacts from oil and gas operations; ~~on wildlife~~
16 ~~resources;~~ AND

17 (b) Minimize AND MITIGATE the extent and severity of those
18 impacts that cannot be avoided.

19 ~~(c) Mitigate the effects of unavoidable remaining impacts; and~~

20 ~~(d) Take into consideration cost-effectiveness and technical~~
21 ~~feasibility with regard to actions and decisions taken to minimize adverse~~
22 ~~impacts to wildlife resources.~~

23 (6.2) "OIL AND GAS FACILITY" MEANS EQUIPMENT OR
24 IMPROVEMENTS USED OR INSTALLED AT AN OIL AND GAS LOCATION FOR
25 THE EXPLORATION, PRODUCTION, WITHDRAWAL, TREATMENT, OR
26 PROCESSING OF CRUDE OIL, CONDENSATE, EXPLORATION AND PRODUCTION
27 WASTE, OR GAS.

1 (6.4) "OIL AND GAS LOCATION" MEANS A DEFINABLE AREA WHERE
2 AN OIL AND GAS OPERATOR HAS DISTURBED OR INTENDS TO DISTURB THE
3 LAND SURFACE IN ORDER TO LOCATE AN OIL AND GAS FACILITY.

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

5 (a) Includes the escape, blowing, or releasing, directly or
6 indirectly into the open air, of gas from wells productive of gas only, or
7 gas in an excessive or unreasonable amount from wells producing oil or
8 both oil and gas; and the production of gas in quantities or in such manner
9 as unreasonably reduces reservoir pressure or, SUBJECT TO SUBSECTION
10 (11)(b) OF THIS SECTION, unreasonably diminishes the quantity of oil or
11 gas that ultimately may be produced; excepting gas that is reasonably
12 necessary in the drilling, completing, testing, and in furnishing power for
13 the production of wells; AND

14 (b) DOES NOT INCLUDE THE NONPRODUCTION OF GAS FROM A
15 FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND
16 WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED
17 BY THE COMMISSION.

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

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

27 (b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL FROM A

1 FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND
2 WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED
3 BY THE COMMISSION.

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

6 (a) Means, SUBJECT TO SUBSECTION (13)(b) OF THIS SECTION:

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

9 ~~(b)~~ (II) The locating, spacing, drilling, equipping, operating, or
10 producing of any oil or gas well or wells in a manner ~~which~~ THAT causes
11 or tends to cause reduction in quantity of oil or gas ultimately recoverable
12 from a pool under prudent and proper operations or ~~which~~ THAT causes
13 or tends to cause unnecessary or excessive surface loss or destruction of
14 oil or gas; AND

15 ~~(c)~~ (III) Abuse of the correlative rights of any owner in a pool due
16 to nonuniform, disproportionate, unratable, or excessive withdrawals of
17 oil or gas ~~therefrom~~ FROM THE POOL, causing reasonably avoidable
18 drainage between tracts of land or resulting in one or more producers or
19 owners in ~~such~~ THE pool producing more than ~~his~~ AN equitable share of
20 the oil or gas from ~~such~~ THE pool; AND

21 (b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL OR GAS FROM
22 A FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND
23 WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED
24 BY THE COMMISSION.

25 **SECTION 8.** In Colorado Revised Statutes, 34-60-104, **amend**
26 (1), (2)(a)(I), and (2)(a)(II) as follows:

27 **34-60-104. Oil and gas conservation commission - report -**

1 **publication.** (1) There is hereby created, in the department of natural
2 resources, the oil and gas conservation commission. ~~of the state of~~
3 ~~Colorado.~~

4 (2) (a) (I) Effective July 1, ~~2007~~ 2019, the commission ~~shall~~
5 ~~consist~~ CONSISTS of nine members, seven of whom shall be appointed by
6 the governor with the consent of the senate. ~~and two of whom,~~ The
7 executive director of the department of natural resources and the
8 executive director of the department of public health and environment,
9 ~~shall be~~ OR THE EXECUTIVE DIRECTORS' DESIGNEES, ARE ex officio voting
10 members. At least two members shall be appointed from west of the
11 continental divide, and, to the extent possible, consistent with this
12 ~~paragraph (a)~~ SUBSECTION (2)(a), the other members shall be appointed
13 taking into account the need for geographical representation of ~~other~~
14 areas of the state with high levels of CURRENT OR ANTICIPATED oil and
15 gas activity or employment. ~~Three members shall~~ ONE MEMBER MUST be
16 ~~individuals~~ AN INDIVIDUAL with substantial experience in the oil and gas
17 industry; ~~and at least two of said three members shall have a college~~
18 ~~degree in petroleum geology or petroleum engineering;~~ one member shall
19 MUST be a local government official; one member ~~shall~~ MUST have formal
20 training or substantial experience in environmental ~~or wildlife~~ protection;
21 one member ~~shall~~ MUST have formal training or substantial experience in
22 WILDLIFE PROTECTION; ONE MEMBER MUST HAVE FORMAL TRAINING OR
23 SUBSTANTIAL EXPERIENCE IN soil conservation or reclamation; ~~and~~ one
24 member ~~shall~~ MUST be actively engaged in agricultural production ~~and~~
25 ~~also~~ OR be a royalty owner; AND ONE MEMBER MUST HAVE FORMAL
26 TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC HEALTH. Excluding the
27 executive directors from consideration, no more than four members of the

1 commission ~~shall~~ MAY be members of the same political party.

2 (II) Subject to ~~paragraph (b) of this subsection (2)~~ SUBSECTION
3 (2)(b) OF THIS SECTION, nothing in this ~~paragraph (a) shall be construed~~
4 ~~to require~~ SUBSECTION (2)(a) REQUIRES a holdover member of the
5 commission holding office on July 1, ~~2007~~ 2019, to comply with ~~the~~
6 ~~provisions of this paragraph (a)~~ THIS SUBSECTION (2)(a), as amended,
7 unless ~~such~~ THE person is reappointed to the commission for another term
8 of office. Nothing in this ~~subparagraph (II) shall alter, impair, or negate~~
9 SUBSECTION (2)(a) ALTERS, IMPAIRS, OR NEGATES the authority of the
10 governor to remove or appoint members of the commission pursuant to
11 ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION.

12 **SECTION 9.** In Colorado Revised Statutes, 34-60-104.5, **amend**
13 **(2)(d); and add (3)** as follows:

14 **34-60-104.5. Director of commission - duties - repeal.** (2) The
15 director of the commission shall:

16 (d) (I) Appoint, pursuant to section 13 of article XII of the state
17 constitution, such clerical and professional staff and consultants as may
18 be necessary for the efficient and effective operation of the commission,
19 INCLUDING AT LEAST ONE AND UP TO TWO DEPUTY DIRECTORS; and ~~shall~~

20 (II) Exercise general supervisory control over ~~said~~ THE staff; and

21 **(3) (a) THE DIRECTOR OF THE COMMISSION SHALL SUBMIT A**
22 **REPORT TO THE GENERAL ASSEMBLY BY JANUARY 1, 2021, REGARDING**
23 **ANY RECOMMENDED STRUCTURAL CHANGES TO THE COMMISSION,**
24 **INCLUDING MAKING COMMISSION MEMBERSHIP A FULL-TIME PAID POSITION**
25 **AND EVALUATING THE USE OF ADDITIONAL ADMINISTRATIVE LAW JUDGES**
26 **AND HEARING OFFICERS TO ALLOW THE COMMISSION TO DEVOTE MORE OF**
27 **ITS TIME AND EFFORTS TO SETTING POLICY AND PROMULGATING RULES.**

1 (b) THE DIRECTOR'S REPORT MUST INCLUDE THE FOLLOWING
2 INFORMATION:

3 (I) A SUMMARY OF ANY RELEVANT INFORMATION LEARNED FROM
4 A REVIEW OF THE STRUCTURE OF OTHER STATES' PROFESSIONAL AND
5 NONPROFESSIONAL OIL AND GAS COMMISSIONS; AND

6 (II) AN ANALYSIS AS TO WHETHER AND TO WHAT EXTENT THE
7 COMMISSION HAS ADEQUATE SCIENTIFIC EXPERTISE IN THE AREAS OF OIL
8 AND GAS MINERAL RESOURCE DEVELOPMENT, INCLUDING GEOLOGISTS,
9 PETROLEUM GEOLOGISTS, AND PETROLEUM ENGINEERS.

10 (c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1,
11 2022.

12 **SECTION 10.** In Colorado Revised Statutes, 34-60-105, **amend**
13 (1) as follows:

14 **34-60-105. Powers of commission.** (1) (a) The commission has
15 jurisdiction over all persons and property, public and private, necessary
16 to enforce ~~the provisions of this article, and has~~ THIS ARTICLE 60, the
17 power to make and enforce rules ~~regulations,~~ and orders pursuant to this
18 ~~article~~ ARTICLE 60, and to do whatever may reasonably be necessary to
19 carry out ~~the provisions of this article~~ THIS ARTICLE 60.

20 (b) Any delegation of authority to any other state officer, board,
21 or commission to administer any other laws of this state relating to the
22 conservation of oil or gas, or either of them, is hereby rescinded and
23 withdrawn, and ~~such~~ THAT authority is unqualifiedly conferred upon the
24 commission, as provided in this section; EXCEPT THAT, AS FURTHER
25 SPECIFIED IN SECTION 34-60-131, NOTHING IN THIS ARTICLE 60 ALTERS,
26 IMPAIRS, OR NEGATES THE AUTHORITY OF:

27 (I) THE AIR QUALITY CONTROL COMMISSION TO REGULATE,

1 PURSUANT TO ARTICLE 7 OF TITLE 25, THE EMISSION OF AIR POLLUTANTS
2 FROM OIL AND GAS OPERATIONS;

3 (II) THE WATER QUALITY CONTROL COMMISSION TO REGULATE,
4 PURSUANT TO ARTICLE 8 OF TITLE 25, THE DISCHARGE OF WATER
5 POLLUTANTS FROM OIL AND GAS OPERATIONS;

6 (III) THE STATE BOARD OF HEALTH TO REGULATE, PURSUANT TO
7 SECTION 25-11-104, THE DISPOSAL OF NATURALLY OCCURRING
8 RADIOACTIVE MATERIALS AND TECHNOLOGICALLY ENHANCED NATURALLY
9 OCCURRING RADIOACTIVE MATERIALS FROM OIL AND GAS OPERATIONS;

10 (IV) THE SOLID AND HAZARDOUS WASTE COMMISSION TO:

11 (A) REGULATE, PURSUANT TO ARTICLE 15 OF TITLE 25, THE
12 DISPOSAL OF HAZARDOUS WASTE FROM OIL AND GAS OPERATIONS; OR

13 (B) REGULATE, PURSUANT TO SECTION 30-20-109 (1.5), THE
14 DISPOSAL OF EXPLORATION AND PRODUCTION WASTE FROM OIL AND GAS
15 OPERATIONS; AND

16 (V) A LOCAL GOVERNMENT TO REGULATE OIL AND GAS
17 OPERATIONS PURSUANT TO SECTION 29-20-104;

18 (c) Any person, or the attorney general on behalf of the state, may
19 apply for ~~any~~ A hearing before the commission, or the commission may
20 initiate proceedings, upon any question relating to the administration of
21 this ~~article~~ ARTICLE 60, and jurisdiction is conferred upon the commission
22 to hear and determine the ~~same~~ QUESTION and enter its rule ~~regulation~~, or
23 order with respect ~~thereto~~ TO THE QUESTION.

24 **SECTION 11.** In Colorado Revised Statutes, 34-60-106, **amend**
25 (1) introductory portion, (1)(f), (2) introductory portion, (2)(b), (2)(c), (7),
26 (13), and (15); **repeal** (2)(d); and **add** (2.5), (11)(c), (18), (19), and (20)
27 as follows:

1 **34-60-106. Additional powers of commission - rules - repeal.**

2 (1) The commission also ~~has authority to~~ SHALL require:

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

5 (A) ~~Giving to the commission notice of intention~~ APPLYING FOR
6 A PERMIT to drill, WHICH MUST INCLUDE PROOF EITHER THAT: THE
7 OPERATOR HAS FILED AN APPLICATION WITH ALL AFFECTED LOCAL
8 GOVERNMENTS TO APPROVE THE SITING OF THE PROPOSED OIL AND GAS
9 LOCATION AND THE LOCAL GOVERNMENTS' DISPOSITION OF THE
10 APPLICATION; OR NO AFFECTED LOCAL GOVERNMENT REGULATES THE
11 SITING OF OIL AND GAS LOCATIONS; and ~~without first~~

12 (B) Obtaining a permit from the commission, under ~~such rules and~~
13 ~~regulations as may be~~ prescribed by the commission; and

14 (II) Paying to the commission a filing and service fee to be
15 established by the commission for the purpose of paying the expense of
16 administering this ~~article~~ ARTICLE 60 as provided in section 34-60-122,
17 which fee may be transferable or refundable, at the option of the
18 commission, if ~~such~~ THE permit is not used; ~~but no such fee shall exceed~~
19 ~~two hundred dollars;~~ AND

20 (III) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW BUT
21 SUBJECT TO SUBSECTION (1)(f)(III)(B) OF THIS SECTION, UNTIL THE
22 COMMISSION HAS PROMULGATED EVERY RULE REQUIRED TO BE ADOPTED
23 BY SENATE BILL 19-181, ENACTED IN 2019, THAT AMENDS THIS ARTICLE
24 60 AND EACH RULE SPECIFIED IN THIS SUBSECTION (1)(f)(III)(A) HAS
25 BECOME EFFECTIVE, THE DIRECTOR MAY REFUSE TO ISSUE A PERMIT IF THE
26 DIRECTOR DETERMINES THAT THE PERMIT REQUIRES ADDITIONAL
27 ANALYSIS TO ENSURE THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND

1 WELFARE OR THE ENVIRONMENT OR REQUIRES ADDITIONAL LOCAL
2 GOVERNMENT OR OTHER STATE AGENCY CONSULTATION. WITHIN THIRTY
3 DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(f)(III)(A), THE
4 DIRECTOR SHALL PUBLISH SPECIFIC CRITERIA CONCERNING PERMIT
5 REVIEWS PURSUANT TO THIS SUBSECTION (1)(f)(III)(A).

6 (B) THIS SUBSECTION (1)(f)(III) WILL BE REPEALED IF THE RULES
7 SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS SECTION HAVE BECOME
8 EFFECTIVE. THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN
9 WRITING OF THE DATE ON WHICH ALL RULES SPECIFIED IN SUBSECTION
10 (1)(f)(III)(A) OF THIS SECTION HAVE BECOME EFFECTIVE BY E-MAILING
11 THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS SUBSECTION
12 (1)(f)(III) IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE
13 NOTICE THAT THE RULES SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS
14 SECTION HAVE BECOME EFFECTIVE OR, IF THE NOTICE DOES NOT SPECIFY
15 THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

- 16 (2) The commission ~~has the authority to~~ MAY regulate:
 - 17 (b) The shooting and chemical treatment of wells; AND
 - 18 (c) The spacing AND NUMBER of wells ALLOWED IN A DRILLING
19 UNIT. ~~and~~
 - 20 (d) ~~Oil and gas operations so as to prevent and mitigate significant~~
21 ~~adverse environmental impacts on any air, water, soil, or biological~~
22 ~~resource resulting from oil and gas operations to the extent necessary to~~
23 ~~protect public health, safety, and welfare, including protection of the~~
24 ~~environment and wildlife resources, taking into consideration~~
25 ~~cost-effectiveness and technical feasibility.~~

26 (2.5) (a) IN EXERCISING THE AUTHORITY GRANTED BY THIS
27 ARTICLE 60, THE COMMISSION SHALL REGULATE OIL AND GAS OPERATIONS

1 SO AS TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH,
2 SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES
3 AND SHALL PROTECT AGAINST ADVERSE ENVIRONMENTAL IMPACTS ON
4 ANY AIR, WATER, SOIL, OR BIOLOGICAL RESOURCE RESULTING FROM OIL
5 AND GAS OPERATIONS.

6 (b) THE NONPRODUCTION OF OIL AND GAS RESULTING FROM A
7 CONDITIONAL APPROVAL OR DENIAL AUTHORIZED BY THIS SUBSECTION
8 (2.5) DOES NOT CONSTITUTE WASTE.

9 (7)(a) ~~The commission has the authority to~~ MAY establish, charge,
10 and collect docket fees for the filing of applications, petitions, protests,
11 responses, and other pleadings. ~~No such fees shall exceed two hundred~~
12 ~~dollars for any application, petition, or other pleading initiating a~~
13 ~~proceeding nor one hundred dollars for any protest or other responsive~~
14 ~~pleadings, and any party to any commission proceeding shall pay no more~~
15 ~~than one such fee for each proceeding in which it is a party.~~ All such fees
16 shall be deposited in the oil and gas conservation and environmental
17 response fund established by section 34-60-122 and ~~shall be~~ ARE subject
18 to appropriations by the general assembly for the purposes of this ~~article~~
19 ARTICLE 60.

20 (b) THE COMMISSION SHALL BY RULE ESTABLISH THE FEES FOR THE
21 FILING OF APPLICATIONS IN AMOUNTS SUFFICIENT TO RECOVER THE
22 COMMISSION'S REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS
23 IN CONDUCTING THE ANALYSIS, INCLUDING THE ANNUAL REVIEW OF
24 FINANCIAL ASSURANCE PURSUANT TO SUBSECTION (13) OF THIS SECTION,
25 NECESSARY TO ASSURE THAT PERMITTED OPERATIONS WILL BE
26 CONDUCTED IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF
27 THIS ARTICLE 60.

1 (11) (c) THE COMMISSION SHALL ADOPT RULES THAT:

2 (I) ADOPT AN ALTERNATIVE LOCATION ANALYSIS PROCESS AND
3 SPECIFY CRITERIA USED TO IDENTIFY OIL AND GAS LOCATIONS AND
4 FACILITIES PROPOSED TO BE LOCATED NEAR POPULATED AREAS THAT WILL
5 BE SUBJECT TO THE ALTERNATIVE LOCATION ANALYSIS PROCESS; AND

6 (II) IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH
7 AND ENVIRONMENT, EVALUATE AND ADDRESS THE POTENTIAL
8 CUMULATIVE IMPACTS OF OIL AND GAS DEVELOPMENT.

9 (13) The commission shall require every operator to provide
10 assurance that it is financially capable of fulfilling ~~any~~ EVERY obligation
11 imposed ~~under subsections (11), (12), and (17) of this section~~ BY THIS
12 ARTICLE 60 AS SPECIFIED IN RULES ADOPTED ON OR AFTER THE EFFECTIVE
13 DATE OF THIS SUBSECTION (13), AS AMENDED. THE RULE-MAKING MUST
14 CONSIDER: INCREASING FINANCIAL ASSURANCE FOR INACTIVE WELLS AND
15 FOR WELLS TRANSFERRED TO A NEW OWNER; REQUIRING A FINANCIAL
16 ASSURANCE ACCOUNT, WHICH MUST REMAIN TIED TO THE WELL IN THE
17 EVENT OF A TRANSFER OF OWNERSHIP, TO BE FULLY FUNDED IN THE INITIAL
18 YEARS OF OPERATION FOR EACH NEW WELL TO COVER FUTURE COSTS TO
19 PLUG, RECLAIM, AND REMEDIATE THE WELL; AND CREATING A POOLED
20 FUND TO ADDRESS ORPHANED WELLS FOR WHICH NO OWNER, OPERATOR,
21 OR RESPONSIBLE PARTY IS CAPABLE OF COVERING THE COSTS OF
22 PLUGGING, RECLAMATION, AND REMEDIATION. For purposes of this
23 subsection (13), references to "operator" ~~shall~~ include an operator of an
24 underground natural gas storage cavern and an applicant for a certificate
25 of closure under subsection (17) of this section. In complying with this
26 requirement, an operator may submit for commission approval, without
27 limitation, one or more of the following:

1 (a) A guarantee of performance where the operator can
2 demonstrate to the commission's satisfaction that it has sufficient net
3 worth to guarantee performance of ~~any~~ EVERY obligation imposed by ~~rule~~
4 ~~under subsections (11), (12), and (17) of this section.~~ ~~Such~~ THIS ARTICLE
5 60. THE COMMISSION SHALL ANNUALLY REVIEW THE guarantee and
6 demonstration of net worth. ~~shall be annually reviewed by the~~
7 ~~commission.~~

8 (b) A certificate of general liability insurance in a form acceptable
9 to the commission ~~which~~ THAT names the state as an additional insured
10 and ~~which~~ covers occurrences during the policy period of a nature
11 relevant to an obligation imposed by ~~rule under subsections (11), (12),~~
12 ~~and (17) of this section~~ THIS ARTICLE 60;

13 (c) A bond or other surety instrument;

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

16 (e) An escrow account or sinking fund dedicated to the
17 performance of ~~any~~ EVERY obligation imposed by ~~rule under subsections~~
18 ~~(11), (12), and (17) of this section~~ THIS ARTICLE 60;

19 (f) A lien or other security interest in real or personal property of
20 the operator. ~~Such~~ THE lien or security interest ~~shall~~ MUST be in a form
21 and priority acceptable to the commission in its sole discretion. ~~and shall~~
22 ~~be reviewed annually by~~ The commission SHALL ANNUALLY REVIEW THE
23 LIEN OR SECURITY.

24 (15) The commission may, as it deems appropriate, assign its
25 inspection and monitoring function, but not its enforcement authority,
26 through intergovernmental agreement or by private contract; except that
27 ~~no such~~ AN assignment ~~shall~~ MUST NOT allow for the imposition of any

1 new tax or fee by the assignee in order to conduct ~~such~~ THE assigned
2 inspection and monitoring and ~~no such assignment shall~~ MUST NOT
3 provide for compensation contingent on the number or nature of alleged
4 violations referred to the commission by the assignee. ~~No local~~
5 ~~government may charge a tax or fee to conduct inspections or monitoring~~
6 ~~of oil and gas operations with regard to matters that are subject to rule,~~
7 ~~regulation, order, or permit condition administered by the commission.~~
8 ~~Nothing in this subsection (15) shall affect the ability of a local~~
9 ~~government to charge a reasonable and nondiscriminatory fee for~~
10 ~~inspection and monitoring for road damage and compliance with local fire~~
11 ~~codes, land use permit conditions, and local building codes.~~

12 (18) THE COMMISSION SHALL PROMULGATE RULES TO ENSURE
13 PROPER WELLBORE INTEGRITY OF ALL OIL AND GAS PRODUCTION WELLS.
14 IN PROMULGATING THE RULES, THE COMMISSION SHALL CONSIDER
15 INCORPORATING RECOMMENDATIONS FROM THE STATE OIL AND GAS
16 REGULATORY EXCHANGE AND SHALL INCLUDE PROVISIONS TO:

17 (a) ADDRESS THE PERMITTING, CONSTRUCTION, OPERATION, AND
18 CLOSURE OF PRODUCTION WELLS;

19 (b) REQUIRE THAT WELLS ARE CONSTRUCTED USING CURRENT
20 PRACTICES AND STANDARDS THAT PROTECT WATER ZONES AND PREVENT
21 BLOWOUTS;

22 (c) ENHANCE SAFETY AND ENVIRONMENTAL PROTECTIONS DURING
23 OPERATIONS SUCH AS DRILLING AND HYDRAULIC FRACTURING;

24 (d) REQUIRE REGULAR INTEGRITY ASSESSMENTS FOR ALL OIL AND
25 GAS PRODUCTION WELLS, SUCH AS PRESSURE MONITORING DURING
26 PRODUCTION; AND

27 (e) ADDRESS THE USE OF NONDESTRUCTIVE TESTING OF WELL

1 JOINTS.

2 (19) THE COMMISSION SHALL REVIEW AND AMEND ITS FLOWLINE
3 AND INACTIVE, TEMPORARILY ABANDONED, AND SHUT-IN WELL RULES TO
4 THE EXTENT NECESSARY TO ENSURE THAT THE RULES PROTECT AND
5 MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE
6 AND THE ENVIRONMENT, INCLUDING BY:

7 (a) ALLOWING PUBLIC DISCLOSURE OF FLOWLINE INFORMATION
8 AND EVALUATING AND DETERMINING WHEN A DEACTIVATED FLOWLINE
9 MUST BE INSPECTED BEFORE BEING REACTIVATED; AND

10 (b) EVALUATING AND DETERMINING WHEN INACTIVE,
11 TEMPORARILY ABANDONED, AND SHUT-IN WELLS MUST BE INSPECTED
12 BEFORE BEING PUT INTO PRODUCTION OR USED FOR INJECTION.

13 (20) THE COMMISSION SHALL ADOPT RULES TO REQUIRE
14 CERTIFICATION FOR WORKERS IN THE FOLLOWING FIELDS:

15 (a) COMPLIANCE OFFICERS WITH REGARD TO THE FEDERAL
16 "OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970", 29 U.S.C. SEC. 651
17 ET SEQ., INCLUDING SPECIFICALLY WORKING IN CONFINED SPACES;

18 (b) COMPLIANCE OFFICERS WITH REGARD TO CODES PUBLISHED BY
19 THE AMERICAN PETROLEUM INSTITUTE AND AMERICAN SOCIETY OF
20 MECHANICAL ENGINEERS, OR THEIR SUCCESSOR ORGANIZATIONS;

21 (c) THE HANDLING OF HAZARDOUS MATERIALS;

22 (d) WELDERS WORKING ON OIL AND GAS PROCESS LINES,
23 INCLUDING:

24 (I) KNOWLEDGE OF THE FLOWLINE RULES PROMULGATED
25 PURSUANT TO SUBSECTION (19) OF THIS SECTION;

26 (II) A MINIMUM OF SEVEN THOUSAND HOURS OF DOCUMENTED
27 ON-THE-JOB TRAINING; AND

1 (III) PASSAGE OF THE INTERNATIONAL CODE COUNCIL EXAM F31,
2 NATIONAL STANDARD JOURNEYMAN MECHANICAL, OR AN ANALOGOUS
3 SUCCESSOR EXAM, FOR ANY PERSON WORKING ON PRESSURIZED PROCESS
4 LINES IN UPSTREAM AND MIDSTREAM OPERATIONS.

5 **SECTION 12.** In Colorado Revised Statutes, 34-60-116, **amend**
6 (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I); and **add** (7)(a)(IV)
7 as follows:

8 **34-60-116. Drilling units - pooling interests.** (1) (a) To prevent
9 or to assist in preventing waste, to avoid the drilling of unnecessary wells,
10 or to protect correlative rights, the commission, upon its own motion or
11 on a proper application of an interested party, but after notice and hearing
12 as provided in this section, may establish one or more drilling units of
13 specified size and shape covering any pool or portion of a pool.

14 (b) THE APPLICATION MUST INCLUDE PROOF THAT EITHER:

15 (I) THE APPLICANT HAS FILED AN APPLICATION WITH ALL AFFECTED
16 LOCAL GOVERNMENTS TO APPROVE THE SITING OF THE PROPOSED OIL AND
17 GAS LOCATION AND THE LOCAL GOVERNMENTS' DISPOSITION OF THE
18 APPLICATION; OR

19 (II) NO AFFECTED LOCAL GOVERNMENT REGULATES THE SITING OF
20 OIL AND GAS LOCATIONS.

21 (3) The order establishing a drilling unit:

22 (a) IS SUBJECT TO SECTION 34-60-106 (2.5); AND

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

25 (6) (a) When two or more separately owned tracts are embraced
26 within a drilling unit, or when there are separately owned interests in all
27 or a part of the drilling unit, then persons owning ~~such~~ THE interests may

1 pool their interests for the development and operation of the drilling unit.

2 (b) (I) In the absence of voluntary pooling, the commission, upon
3 the application of ~~any interested person~~ A PERSON WHO OWNS, OR HAS
4 SECURED THE CONSENT OF THE OWNERS OF, MORE THAN FIFTY PERCENT OF
5 THE MINERAL INTERESTS TO BE POOLED, may enter an order pooling all
6 interests in the drilling unit for the development and operation ~~thereof~~.
7 ~~Each such~~ OF THE DRILLING UNIT.

8 (II) THE pooling order shall be made after notice and A hearing
9 and ~~shall~~ MUST be upon terms and conditions that are just and reasonable
10 and that afford to the owner of each tract or interest in the drilling unit the
11 opportunity to recover or receive, without unnecessary expense, ~~his~~ A just
12 and equitable share.

13 (c) Operations incident to the drilling of a well upon any portion
14 of a unit covered by a pooling order shall be deemed for all purposes to
15 be the conduct of ~~such~~ operations upon each separately owned tract in the
16 unit by the several owners ~~thereof~~ OF EACH SEPARATELY OWNED TRACT.
17 That portion of the production allocated or applicable to each tract
18 included in a unit covered by a pooling order shall, when produced, be
19 deemed for all purposes to have been produced from ~~such~~ THE tract by a
20 well drilled ~~thereon~~ ON IT.

21 (7) (a) Each pooling order must:

22 (II) Determine the interest of each owner in the unit and provide
23 that each consenting owner is entitled to receive, subject to royalty or
24 similar obligations, the share of the production from the wells applicable
25 to the owner's interest in the wells and, unless the owner has agreed
26 otherwise, a proportionate part of the nonconsenting owner's share of the
27 production until costs are recovered and that each nonconsenting owner

1 is entitled to own and to receive the share of the production applicable to
2 the owner's interest in the unit after the consenting owners have recovered
3 the nonconsenting owner's share of the costs out of production; and

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

7 (IV) PROHIBIT THE OPERATOR FROM USING THE SURFACE OWNED
8 BY A NONCONSENTING OWNER WITHOUT PERMISSION FROM THE
9 NONCONSENTING OWNER.

10 (c) A nonconsenting owner of a tract in a drilling unit that is not
11 subject to any lease or other contract for the development thereof for oil
12 and gas DEVELOPMENT shall be deemed to have a landowner's
13 proportionate royalty of ~~twelve and one-half~~ FIFTEEN percent until such
14 ~~time as~~ the consenting owners recover, only out of the nonconsenting
15 owner's proportionate ~~seven-eighths~~ EIGHTY-FIVE PERCENT share of
16 production, the costs specified in subsection (7)(b) of this section. After
17 recovery of the costs, the nonconsenting owner then owns his or her full
18 proportionate share of the wells, surface facilities, and production and
19 then is liable for further costs as if the NONCONSENTING owner had
20 originally agreed to drilling of the wells.

21 (d) (I) THE COMMISSION SHALL NOT ENTER an order pooling an
22 unleased nonconsenting mineral owner ~~shall not be entered by the~~
23 ~~commission~~ under subsection (6) of this section over protest of the owner
24 unless the commission has received evidence that the unleased mineral
25 owner has been tendered, no less than sixty days before the hearing, a
26 reasonable offer, MADE IN GOOD FAITH, to lease upon terms no less
27 favorable than those currently prevailing in the area at the time

1 application for the order is made and that ~~such~~ THE unleased mineral
2 owner has been furnished in writing the owner's share of the estimated
3 drilling and completion cost of the wells, the location and objective depth
4 of the wells, and the estimated spud date for the wells or range of time
5 within which spudding is to occur. The offer must include a copy of or
6 link to a brochure supplied by the commission that clearly and concisely
7 describes the pooling procedures specified in this section and the mineral
8 owner's options pursuant to those procedures.

9 **SECTION 13.** In Colorado Revised Statutes, 34-60-122, **amend**
10 (1)(b) as follows:

11 **34-60-122. Expenses - fund created.** (1) (b) On and after July
12 1, ~~2014~~ 2019, the commission shall ensure that the ~~two-year average of~~
13 ~~the~~ unobligated portion of the fund does not exceed ~~six million dollars~~
14 FIFTY PERCENT OF TOTAL APPROPRIATIONS FROM THE FUND FOR THE
15 UPCOMING FISCAL YEAR and that there is an adequate balance in the
16 ~~environmental response account created pursuant to subsection (5) of this~~
17 ~~section~~ FUND TO SUPPORT THE OPERATIONS OF THE COMMISSION AND to
18 address environmental response needs.

19 **SECTION 14.** In Colorado Revised Statutes, 34-60-128, **repeal**
20 (4) as follows:

21 **34-60-128. Habitat stewardship - rules.** (4) ~~Nothing in this~~
22 ~~section shall establish, alter, impair, or negate the authority of local and~~
23 ~~county governments to regulate land use related to oil and gas operations.~~

24 **SECTION 15.** In Colorado Revised Statutes, **add** 34-60-131 as
25 follows:

26 **34-60-131. No land use preemption - most protective standard**
27 **controls.** (1) (a) NOTHING IN THIS ARTICLE 60 IMPAIRS OR NEGATES THE

1 AUTHORITY OF A LOCAL GOVERNMENT TO REGULATE LAND USE AND THE
2 SITING OF OIL AND GAS LOCATIONS AND FACILITIES.

3 (b) AN OPERATOR IS SUBJECT TO LOCAL GOVERNMENTS' LAND USE
4 AND SITING AUTHORITY AS PROVIDED BY LAW AND SHALL ENSURE THAT
5 THE LOCATION OF OIL AND GAS LOCATIONS AND FACILITIES COMPLIES WITH
6 LOCAL GOVERNMENT LAND USE AND SITING REGULATIONS.

7 (2) LOCAL GOVERNMENTS AND STATE AGENCIES, INCLUDING THE
8 COMMISSION AND AGENCIES LISTED IN SECTION 34-60-105 (1)(b), HAVE
9 REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT, INCLUDING
10 AS SPECIFIED IN SECTION 34-60-105 (1)(b). IF THERE IS A CONFLICT
11 BETWEEN THE REGULATIONS OR STANDARDS OF A LOCAL GOVERNMENT
12 AND A STATE AGENCY, INCLUDING THE COMMISSION, OR BETWEEN STATE
13 AGENCIES REGARDING AN EXERCISE OF AUTHORITY, THE REGULATION OR
14 STANDARD THAT IS RATIONALLY DESIGNED TO BE MORE PROTECTIVE OF
15 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, OR WILDLIFE
16 RESOURCES CONTROLS.

17 **SECTION 16. Appropriation.** (1) For the 2019-20 state fiscal
18 year, \$770,959 is appropriated to the department of natural resources.
19 This appropriation consists of \$678,431 cash funds from the oil and gas
20 conservation and environmental response fund created in section
21 34-60-122 (5)(a), C.R.S., and \$92,528 cash funds from the wildlife cash
22 fund created in section 33-1-112 (1)(a), C.R.S. To implement this act, the
23 department may use this appropriation as follows:

24 (a) \$489,759 from the oil and gas conservation and environmental
25 response fund for use by the oil and gas conservation commission for
26 program costs, which amount is based on an assumption that the oil and
27 gas conservation commission will require an additional 5.0 FTE;

1 (b) \$88,628 from the wildlife cash fund for wildlife operations,
2 which amount is based on an assumption that the division of wildlife will
3 require an additional 1.0 FTE;

4 (c) \$6,038, which consists of \$3,900 from the wildlife cash fund
5 and \$2,138 from the oil and gas conservation and environmental response
6 fund, for vehicle lease payments; and

7 (d) \$186,534 from the oil and gas conservation and environmental
8 response fund for the purchase of legal services.

9 (2) For the 2019-20 state fiscal year, \$186,534 is appropriated to
10 the department of law. This appropriation is from reappropriated funds
11 received from the department of natural resources under subsection (1)(d)
12 of this section and is based on an assumption that the department of law
13 will require an additional 1.0 FTE. To implement this act, the department
14 of law may use this appropriation to provide legal services for the
15 department of natural resources.

16 **SECTION 17. Applicability.** This act applies to conduct
17 occurring on or after the effective date of this act, including
18 determinations of applications pending on the effective date.

19 **SECTION 18. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.