

## CHAPTER 317

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**NATURAL RESOURCES**

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**SENATE BILL 94-177**

BY SENATORS Ament, Norton, Wattenberg, Blickensderfer, Cassidy, Feeley, Mutzebaugh, Peterson, L. Powers, R. Powers, Roberts, and Tebedo;  
also REPRESENTATIVES Jerke, Blue, Eisenach, Fleming, June, Knox, Moellenberg, Owen, Shoemaker, Snyder, and Sullivan.

**AN ACT****CONCERNING REGULATION OF OIL AND GAS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** The general assembly declares that the purpose of this act is to address the regulatory and enforcement authority of the Colorado oil and gas conservation commission and that nothing in this act shall be construed to affect the existing land use authority of local governmental entities.

**SECTION 2.** 34-60-102 (1), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

**34-60-102. Legislative declaration.** (1) It is declared to be in the public interest to foster, encourage, and promote the development, production, and utilization of the natural resources of oil and gas in the state of Colorado IN A MANNER CONSISTENT WITH PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE; to protect the public and private interests against the evils of waste in the production and utilization of oil and gas by prohibiting waste; to 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 ~~his~~ A just and equitable share of production therefrom. It is not the intent nor the purpose of this article 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 to permit each oil and gas pool in Colorado to produce up to its maximum efficient rate of production, subject to the prohibition of waste, and subject further to the enforcement and protection of the coequal and correlative rights of the owners and producers of

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

a common source of oil and gas, so that each common owner and producer may obtain his A just and equitable share of production therefrom.

**SECTION 3.** 34-60-103, Colorado Revised Statutes, 1984 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

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

(4.5) "EXPLORATION AND PRODUCTION WASTE" MEANS THOSE WASTES THAT ARE GENERATED DURING THE DRILLING OF AND PRODUCTION FROM OIL AND GAS WELLS 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. SEC. 6901 TO 6934, AS AMENDED.

(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 FLOWLINES 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.

(7.5) "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.

(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.

**SECTION 4.** 34-60-104 (2) (a), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

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

(2) (a) EFFECTIVE JULY 1, 1994, the commission shall consist of ~~six~~ SEVEN members appointed by the governor, with the consent of the senate. At least one member shall be appointed from each congressional district in the state; EXCEPT THAT ONE MEMBER SHALL BE FROM WEST OF THE CONTINENTAL DIVIDE. ~~One member~~ TWO MEMBERS shall NOT be a member of the public sector who is not employed by the oil and gas industry AND SHALL BE INDIVIDUALS WITH FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN AGRICULTURE, LAND RECLAMATION, ENVIRONMENTAL PROTECTION, OR SOIL CONSERVATION. FIVE MEMBERS SHALL BE INDIVIDUALS WITH SUBSTANTIAL EXPERIENCE IN THE OIL AND GAS INDUSTRY, AND AT LEAST TWO OF SAID FIVE

MEMBERS SHALL HAVE A COLLEGE DEGREE IN PETROLEUM GEOLOGY OR PETROLEUM ENGINEERING. NO MORE THAN FOUR MEMBERS OF THE COMMISSION SHALL BE MEMBERS OF THE SAME POLITICAL PARTY. A vacancy on the commission occurs whenever any member moves out of the congressional district from which ~~he~~ SUCH MEMBER was appointed. Any member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The governor shall fill the vacancy as provided in paragraph (b) of this subsection (2). ~~No more than three members of the commission shall be members of the same major political party.~~ In case one or more vacancies occur on the same day, the governor shall designate the order of filling vacancies.

**SECTION 5.** 34-60-104.5 (2) (d), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

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

(d) 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 and SHALL exercise general supervisory control over said staff; and

**SECTION 6.** 34-60-106 (1) (d), (2) (d), (11), and (12), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended, and the said 34-60-106 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**34-60-106. Additional powers of the commission.** (1) The commission also has authority to require:

(d) ~~The furnishing of reasonable security conditioned upon the performance of the duty to plug each seismic hole or exploratory well and each dry or abandoned well.~~

(2) The commission has the authority to regulate:

(d) ~~The disposal of salt water and oil field wastes~~ OIL AND GAS OPERATIONS SO AS TO PREVENT AND MITIGATE SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS ON ANY AIR, WATER, SOIL, OR BIOLOGICAL RESOURCE RESULTING FROM OIL AND GAS OPERATIONS TO THE EXTENT NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, TAKING INTO CONSIDERATION COST-EFFECTIVENESS AND TECHNICAL FEASIBILITY.

(11) The commission shall promulgate rules and regulations to protect the health, safety, and welfare of the general public in the ~~drilling, completion, and operation~~ CONDUCT of oil and gas ~~wells and production facilities~~ OPERATIONS.

(12) ~~The commission has the authority to establish, charge, and collect fees for services it provides, including the sale of computer tapes.~~ 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 ANY OBLIGATION IMPOSED UNDER SUBSECTIONS (11) AND (12) 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 ANY OBLIGATION IMPOSED BY RULE UNDER SUBSECTIONS (11) AND (12) OF THIS SECTION. SUCH GUARANTEE AND DEMONSTRATION OF NET WORTH SHALL BE ANNUALLY REVIEWED BY THE COMMISSION.

(b) A CERTIFICATE OF GENERAL LIABILITY INSURANCE IN A FORM ACCEPTABLE TO THE COMMISSION WHICH NAMES THE STATE AS AN ADDITIONAL INSURED AND WHICH COVERS OCCURRENCES DURING THE POLICY PERIOD OF A NATURE RELEVANT TO AN OBLIGATION IMPOSED BY RULE UNDER SUBSECTIONS (11) AND (12) OF THIS SECTION;

(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 ANY OBLIGATION IMPOSED BY RULE UNDER SUBSECTIONS (11) AND (12) OF THIS SECTION;

(f) A LIEN OR OTHER SECURITY INTEREST IN REAL OR PERSONAL PROPERTY OF THE OPERATOR. SUCH LIEN OR SECURITY INTEREST SHALL BE IN A FORM AND PRIORITY ACCEPTABLE TO THE COMMISSION IN ITS SOLE DISCRETION AND SHALL BE REVIEWED ANNUALLY BY THE COMMISSION.

(14) THE COMMISSION SHALL PROVIDE A MEANS FOR GIVING REASONABLE ADVANCE NOTICE OF THE COMMENCEMENT OF OIL AND GAS OPERATIONS TO THE APPROPRIATE LOCAL GOVERNMENT AND SURFACE OWNERS WHOSE LANDS WILL BE AFFECTED THEREBY.

(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 NO SUCH ASSIGNMENT SHALL ALLOW FOR THE IMPOSITION OF ANY NEW TAX OR FEE BY THE ASSIGNEE IN ORDER TO CONDUCT SUCH ASSIGNED INSPECTION AND MONITORING, AND NO SUCH ASSIGNMENT SHALL PROVIDE FOR COMPENSATION CONTINGENT ON THE NUMBER OR NATURE OF ALLEGED VIOLATIONS REFERRED TO THE COMMISSION BY THE ASSIGNEE.

(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.

**SECTION 7.** 34-60-108 (2), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

**34-60-108. Rules - hearings - process.** (2) No rule, regulation, or order, or amendment thereof, shall be made by the commission without a hearing upon at least ~~ten~~ 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.

**SECTION 8.** 34-60-109, Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

**34-60-109. Commission may bring suit.** If it appears that any person ~~is violating or threatening to violate any provision of this article or any rule, regulation, or order made under this article,~~ 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.

**SECTION 9.** 34-60-121 (1), Colorado Revised Statutes, 1984 Repl. Vol., is amended, and the said 34-60-121 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**34-60-121. Violations and penalties.** (1) Any ~~person~~ OPERATOR who violates any provision of this article, or OF any rule, regulation, or order of the commission, OR OF ANY PERMIT shall be subject to a penalty of not more than one thousand dollars for each act of violation ~~and for each~~ PER day that such violation continues. ~~unless the penalty for such violation is otherwise specifically provided for and made exclusive in this article.~~ ANY SUCH PENALTY SHALL BE IMPOSED BY ORDER OF THE COMMISSION, AFTER A HEARING IN ACCORDANCE WITH SECTION 34-60-108, OR BY AN ADMINISTRATIVE ORDER BY CONSENT ENTERED INTO BY THE COMMISSION AND AN OPERATOR. FOR A VIOLATION WHICH DOES NOT RESULT IN SIGNIFICANT WASTE OF OIL AND GAS RESOURCES OR DAMAGE TO CORRELATIVE RIGHTS OR DOES NOT RESULT IN A SIGNIFICANT ADVERSE IMPACT ON PUBLIC HEALTH, SAFETY, OR WELFARE, THE MAXIMUM PENALTY SHALL NOT EXCEED TEN THOUSAND DOLLARS. THE COMMISSION SHALL PROMULGATE RULES THAT ESTABLISH A PENALTY SCHEDULE APPROPRIATE TO THE NATURE OF THE VIOLATION AND THAT PROVIDE FOR THE CONSIDERATION OF ANY AGGRAVATING OR MITIGATING CIRCUMSTANCES. AN OPERATOR SUBJECT TO A PENALTY ORDER SHALL PAY THE AMOUNT DUE WITHIN THIRTY DAYS OF ITS IMPOSITION, UNLESS SUCH OPERATOR FILES A JUDICIAL APPEAL. THE PENALTIES OWED

UNDER THIS SECTION MAY BE RECOVERED IN A CIVIL ACTION BROUGHT BY THE ATTORNEY GENERAL AT THE REQUEST OF THE COMMISSION IN THE SECOND JUDICIAL DISTRICT. MONEYS COLLECTED THROUGH THE IMPOSITION OF PENALTIES SHALL BE CREDITED FIRST TO ANY LEGAL COSTS AND ATTORNEY FEES INCURRED BY THE ATTORNEY GENERAL IN SUCH A RECOVERY ACTION AND THEN TO THE OIL AND GAS ENVIRONMENTAL RESPONSE FUND, CREATED IN SECTION 34-60-124.

(4) WHENEVER THE COMMISSION OR THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE A VIOLATION OF ANY PROVISION OF THIS ARTICLE, ANY RULE, REGULATION, OR ORDER OF THE COMMISSION, OR ANY PERMIT HAS OCCURRED, WRITTEN NOTICE SHALL BE GIVEN TO THE OPERATOR WHOSE ACT OR OMISSION ALLEGEDLY RESULTED IN SUCH VIOLATION. THE NOTICE 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, AND ANY CORRECTIVE ACTION AND ABATEMENT DEADLINES THE COMMISSION OR DIRECTOR ELECTS TO REQUIRE OF THE OPERATOR.

(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) WHENEVER THE COMMISSION OR THE DIRECTOR HAS EVIDENCE THAT AN OPERATOR IS RESPONSIBLE FOR A PATTERN OF VIOLATION OF ANY PROVISION OF THIS ARTICLE, OR OF ANY RULE, REGULATION, OR ORDER OF THE COMMISSION, OR OF ANY PERMIT, THE COMMISSION OR THE DIRECTOR SHALL ISSUE AN ORDER TO SUCH OPERATOR TO APPEAR FOR A HEARING BEFORE THE COMMISSION IN ACCORDANCE WITH SECTION 34-60-108. IF THE COMMISSION FINDS, AFTER SUCH HEARING, THAT A KNOWING AND WILLFUL PATTERN OF VIOLATION EXISTS, IT MAY ISSUE AN ORDER WHICH SHALL PROHIBIT THE ISSUANCE OF ANY NEW PERMITS TO SUCH OPERATOR. WHEN SUCH 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, SUCH ORDER DENYING NEW PERMITS SHALL BE VACATED.

**SECTION 10.** 34-60-122 (1) (b) and (2) (a), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

**34-60-122. Expenses - fund created.** (1) (b) In addition to the charge imposed by paragraph (a) of this subsection (1), 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 (12), 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 surcharge not to exceed two-tenths of one mill on the dollar, to be deposited in the oil and gas environmental response fund created pursuant to section 34-60-124. The commission shall, by order, fix the amount of such surcharge 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 oil and gas environmental response fund may require; except that the commission shall make every reasonable effort to assure that the unobligated portion of the fund does not exceed ~~five hundred thousand~~ ONE MILLION dollars at any time.

(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 ~~by him~~ 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. ~~and the name, address, and percentage interest of each owner of interest in the oil or gas, as shown by the records of the person submitting such return; except that no such list need be submitted if the ownership interests have not changed since the last return was submitted and the producer or purchaser so states on the return.~~

~~The party furnishing the list shall state that the information is believed to be accurate, but that the party need not warrant the correctness of the data set out therein. Any use made of such list by the state of Colorado or any of its agencies or by any political subdivision of the state shall be at the sole risk of the state, such agency, or such political subdivision, and no liability shall be suffered by the party as a result of furnishing any information under this subsection (2). 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.~~

**SECTION 11.** 34-60-124, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

**34-60-124. Oil and gas environmental response fund.** (1) There is hereby created in the state treasury the oil and gas environmental response fund, to which shall be credited the following moneys:

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

(b) Moneys reimbursed to OR RECOVERED BY the commission in payment for ~~costs incurred pursuant to section 34-60-125~~ 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) (b), 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) MONEYS RECOVERED FROM THE SALE OF SALVAGED EQUIPMENT, AS PROVIDED FOR IN PARAGRAPH (c) OF SUBSECTION (6) OF THIS SECTION.

(2) The moneys in the oil and gas environmental response fund shall not revert to the general fund at the end of any fiscal year.

(3) The moneys in the OIL AND GAS ENVIRONMENTAL RESPONSE fund shall be subject to annual appropriation by the general assembly.

~~(4) The fund shall be used as provided in section 34-60-125 to mitigate adverse environmental impacts on subsurface soil, surface soil, groundwater, nearby surface waters, or nearby surface vegetation, resulting from the drilling, operation, or production of oil and gas from wells which have been abandoned or plugged and abandoned, to the extent that mitigation is necessary to protect public health, safety, and welfare at a specific site and to the extent appropriate, considering current economic and technological feasibility. The fund may also be used to investigate allegations of adverse environmental impacts. THE FUND MAY BE EXPENDED BY THE COMMISSION, OR BY THE DIRECTOR AT THE COMMISSION'S DIRECTION, PRIOR TO,~~

DURING, OR AFTER THE CONDUCT OF OIL AND GAS OPERATIONS TO 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. THE FUND MAY BE EXPENDED TO GATHER BACKGROUND OR BASELINE DATA ON ANY AIR, WATER, SOIL, OR BIOLOGICAL RESOURCE WHICH THE COMMISSION DETERMINES MAY BE SO IMPACTED BY THE CONDUCT OF OIL AND GAS OPERATIONS. THE FUND MAY BE EXPENDED TO INVESTIGATE ALLEGED VIOLATIONS OF ANY PROVISION OF THIS ARTICLE, OR OF ANY RULE, REGULATION, OR ORDER OF THE COMMISSION, OR OF ANY PERMIT WHERE THE ALLEGED VIOLATION THREATENS TO CAUSE OR ACTUALLY CAUSES A SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT.

(5) The director of the oil and gas conservation commission shall prepare an annual report for the executive director of the department of natural resources, the general assembly, 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) (a) FOR PURPOSES OF THIS SECTION, "RESPONSIBLE PARTY" MEANS ANY PERSON WHO CONDUCTS AN OIL AND GAS OPERATION IN A MANNER WHICH IS IN CONTRAVENTION OF ANY THEN-APPLICABLE PROVISION OF THIS ARTICLE, OR OF ANY RULE, REGULATION, 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.

(b) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (8), "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.

**SECTION 12.** 34-60-125, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is repealed as follows:

**34-60-125. Mitigation of adverse environmental impacts.** ~~(1) If the commission determines that mitigation is necessary at an oil or gas well and the owner can be identified, the commission may order the owner to mitigate any adverse environmental impacts as provided for in section 34-60-124 (4). Such order shall be served upon the owner personally or by certified mail, return receipt requested, and shall require the owner to mitigate such adverse environmental impacts as expeditiously as the commission may determine. The commission may also order the director of the commission to use moneys from the environmental response fund to mitigate such adverse environmental impacts if the owner fails to do so or if the owner cannot be identified. The commission may also order the director to use moneys from the environmental response fund to investigate allegations of adverse environmental impacts. The commission may file suit in the district court for the judicial district in which the well is located to recover from the owner of the well the costs incurred by the director in investigating and mitigating the adverse environmental impacts. The moneys obtained as a result of any suit brought pursuant to this subsection (1) shall be credited to the oil and gas environmental response fund created in section 34-60-124 (1).~~

~~(2) For the purpose of implementing the provisions of this section, the commission is authorized:~~

~~(a) To enter onto any lands or waters, public or private, and to evaluate adverse environmental impacts when it has reason to believe that such impacts are occurring;~~

~~(b) To monitor or test or require the owner to monitor or test the well, subsurface~~

~~soil, surface soil, groundwater, surface waters, or surface vegetation. If the commission or its designee takes the samples or performs the tests, the commission or its designee shall provide reasonable notice, if possible, to the owner, specifying the date, time, and place the samples will be taken or the tests will be performed and shall provide the owner an opportunity to be present at such time. A duplicate sample taken for testing shall be provided to any person the commission or its designee reasonably believes may be the owner of the well, if such person makes a request therefor. A duplicate copy of the analytical report pertaining to the samples taken pursuant to this paragraph (b) shall be provided as soon as practicable to any person the commission or its designee reasonably believes may be the owner of the well.~~

~~—(c) To sell for salvage the equipment and material which is removed from the well for the purpose of covering the costs of mitigation.~~

~~—(3) For purposes of this section, unless the context otherwise requires, "owner" means the person, as defined in section 34-60-103 (8), who exercised the right to drill into and produce from a pool and to appropriate the oil or gas produced therefrom either for himself or others or for himself and others. Such term includes the owner of a well capable of producing oil or gas, or both. "Owner" also includes any assignee or grantee of an interest from a former owner; except that, for purposes of this section, any person having fee title to the minerals at the termination or expiration of a lease who did not pay any share of the expenses of drilling or operating the well shall not be an owner. Each owner shall be liable only for a share of the costs incurred for mitigation proportionate to such owner's working interest share in the well.~~

**SECTION 13.** 34-60-126, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is repealed as follows:

**34-60-126. Credit allowed for prior payment for mitigation of environmental impacts.** (1) ~~Subject to approval by the commission, there shall be allowed as a credit against the charge imposed pursuant to section 34-60-122 (1) (b), an amount equal to the value of approved contributions made by the producer or purchaser to mitigate adverse environmental impacts at an oil or gas well where the owner cannot be identified. Such credit may be allowed for approved contributions made after March 1, 1990. The amount of credit available, including carry-overs, shall not exceed the producer's or purchaser's current liability for the charge imposed pursuant to section 34-60-122 (1) (b). Any excess shall be carried over and shall be available as a credit against the producer's or purchaser's succeeding liability for such charge.~~

~~—(2) Approved contributions, for the purpose of such credit, shall include contributions of services or property or payment of money to the commission or any other person to mitigate adverse environmental impacts as provided for in section 34-60-124 (4) at an oil or gas well where the owner cannot be identified.~~

~~—(3) Certification of eligibility for credit for an approved contribution for a specified value or amount must be transmitted by the executive director of the department of natural resources to the director of the commission and the producer or purchaser.~~

**SECTION 14. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the oil and gas environmental response

fund not otherwise appropriated, to the department of natural resources, for allocation to the oil and gas conservation commission, for the fiscal year beginning July 1, 1994, the sum of two hundred fifty-five thousand eight hundred forty-seven dollars (\$255,847) and 4.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1994, the sum of ten thousand three hundred sixty dollars (\$10,360) and 0.2 FTE, or so much thereof as may be necessary, for the provision of legal services to the oil and gas conservation commission in the department of natural resources, for the purposes of this act. Such sum shall be from cash funds received by the oil and gas conservation commission out of the appropriation made in subsection (1) of this section.

**SECTION 15. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 1994