

CHAPTER 211

NATURAL RESOURCES

HOUSE BILL 05-1285

BY REPRESENTATIVE(S) Buescher, Hall, Plant, and Garcia;
also SENATOR(S) Tapia, Keller, Owen, Groff, Isgar, and Taylor.

AN ACT**CONCERNING THE MANAGEMENT OF OIL AND GAS FUND BALANCES.**

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

SECTION 1. 34-60-122 (1) (a), (1) (b), and (5), Colorado Revised Statutes, are amended to read:

34-60-122. Expenses - 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), ~~for the purpose of paying the expense of administering this article;~~ 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 ~~one-half~~ 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 oil and gas conservation AND ENVIRONMENTAL RESPONSE fund specified in subsection (5) of this section may require.

(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 (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 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~~

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

~~that~~ ON AND AFTER JULY 1, 2007, the commission shall ~~make every reasonable effort to assure~~ ENSURE that the TWO-YEAR AVERAGE OF THE unobligated portion of the fund does not exceed ~~one~~ TWO million dollars ~~at any time~~ AND THAT THERE IS AN ADEQUATE BALANCE IN THE ENVIRONMENTAL RESPONSE ACCOUNT CREATED PURSUANT TO SUBSECTION (5) OF THIS SECTION TO ADDRESS ENVIRONMENTAL RESPONSE NEEDS.

(5) It is the duty of the oil and gas conservation commission to collect all charges and penalties under this article and to remit them to the state treasurer for deposit in ~~the special fund known as~~ the oil and gas conservation AND ENVIRONMENTAL RESPONSE fund, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. ~~Moneys credited to said fund shall be expended for the purposes of administering the provisions of this article and for paying expenses in connection with the interstate oil compact commission. At the end of each fiscal year, beginning with the fiscal year ending June 30, 1988, all moneys in the fund, up to an amount equal to ten percent of the appropriation for the next following fiscal year, shall remain in the fund. Beginning with the fiscal year which ends on June 30, 1991, any additional moneys shall revert to the oil and gas environmental response fund created by section 34-60-124.~~ 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 general assembly shall annually make appropriations for ~~said~~ THE purposes AUTHORIZED BY SECTION 34-60-124, and warrants shall be drawn against ~~said~~ THE appropriations as provided by law.

SECTION 2. The introductory portion to 34-60-124 (1) and 34-60-124 (1) (a), (1) (e), (2), (3), and (4), Colorado Revised Statutes, are amended, and the said 34-60-124 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

34-60-124. Oil and gas conservation and environmental response. (1) ~~There is hereby created in the state treasury the oil and gas environmental response fund, to which shall be credited~~ The following moneys SHALL BE CREDITED TO THE OIL AND GAS CONSERVATION AND ENVIRONMENTAL RESPONSE FUND:

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

(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)~~ (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;

(2) The moneys in the oil and gas CONSERVATION AND 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 CONSERVATION AND environmental response fund shall be subject to annual appropriation by the general assembly; except that

moneys 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) shall be continuously appropriated to the commission for the purpose of fulfilling obligations under this article upon which an operator has defaulted.

(4) 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:

(a) 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;

(b) ~~The fund may be expended to~~ Gather background or baseline data on any air, water, soil, or biological resource ~~which~~ THAT the commission determines may be so impacted by the conduct of oil and gas operations; AND

(c) ~~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.

(10) THE FUND SHALL BE EXPENDED BY THE COMMISSION OR BY THE DIRECTOR FOR THE PURPOSES OF ADMINISTERING THE PROVISIONS OF THIS ARTICLE, 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.

SECTION 3. 34-60-106 (7), Colorado Revised Statutes, is amended to read:

34-60-106. Additional powers of the commission. (7) The commission has the authority to establish, charge, and collect docket fees for the filing of applications, petitions, protests, responses, and other pleadings. No such fees shall exceed two hundred dollars for any application, petition, or other pleading initiating a proceeding nor one hundred dollars for any protest or other responsive pleadings, and any party to any commission proceeding shall pay no more than one such fee for each proceeding in which it is a party. All such fees shall be deposited in the oil and gas conservation AND ENVIRONMENTAL RESPONSE fund established by section 34-60-122 and shall be subject to appropriations by the general assembly for the purposes of this article.

SECTION 4. 34-60-118.5 (6), Colorado Revised Statutes, is amended to read:

34-60-118.5. Payment of proceeds. (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 moneys received by the commission to cover the costs of such administrative proceedings shall be transmitted to the state treasurer, who shall credit such moneys to the oil and gas conservation AND ENVIRONMENTAL RESPONSE fund created in section 34-60-122.

SECTION 5. 34-60-121 (1), Colorado Revised Statutes, is amended to read:

34-60-121. Violations and penalties. (1) Any 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 per day that such violation continues. 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~~ THAT 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~~ AFTER 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 ENVIRONMENTAL RESPONSE ACCOUNT IN THE oil and gas CONSERVATION AND environmental response fund, created in section ~~34-60-124~~ 34-60-122.

SECTION 6. 24-35-115 (3), Colorado Revised Statutes, is amended to read:

24-35-115. Mineral audit program. (3) The cost of each of the following audits shall be paid by an appropriation from the general fund: Severance tax revenues; revenues accruing to leases managed by the state board of land commissioners authorized in section 36-1-113, C.R.S.; and revenues accruing to the oil and gas conservation AND ENVIRONMENTAL RESPONSE fund created in section 34-60-122 (5), C.R.S. At the end of each fiscal year, beginning with the fiscal year starting July 1, 1986, the oil and gas conservation commission and the state board of land commissioners shall each repay, from the oil and gas conservation AND ENVIRONMENTAL RESPONSE fund, created by section 34-60-122 (5), C.R.S., and the state land board administration fund, created by section 36-1-145 (2) (a), C.R.S., to the general fund the cost of such audits performed on their respective fund, which reimbursement shall not exceed the dollar amount of the collections received by each agency from such audits.

SECTION 7. Effective date. This act shall take effect July 1, 2005.

SECTION 8. 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 1, 2005