



into a special fund for appropriation by the general assembly to state agencies, school districts, and political subdivisions of the state affected by the development and production of energy resources from oil shale lands primarily for use by such entities in planning for and providing facilities and services necessitated by such development and production and secondarily for other state purposes.

(2) All moneys earned from the investment of the oil shale special fund established by subsection (1) of this section shall be deposited by the state treasurer into a separate special fund and shall be appropriated by the general assembly primarily to state agencies, school districts, and political subdivisions of the state affected by the development and production of energy resources from oil shale lands for planning and, in the form of grants and loans, for providing facilities and services necessitated by such development and production and secondarily for other state purposes.

Source: L. 74: p. 308, § 1. L. 75: p. 1338, § 1.

Cross references: For the "Mineral Lands Leasing Act" of February 25, 1920, see 30 U.S.C.A. 181 et seq.

## ARTICLE 64

### Underground Storage

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**34-64-101. Legislative declaration.** Underground storage of natural gas is found and declared to be in the public interest because it will promote the conservation of natural gas, make natural gas more readily available to the domestic, commercial, and industrial consumers of this state, and permit the building of natural gas reserves and orderly withdrawal thereof in periods of peak demand.

Source: L. 53: p. 440, § 2. CRS 53: § 100-9-2. C.R.S. 1963: § 100-9-2.

Am. Jur.2d. See 38 Am. Jur.2d. Gas and Oil.  
§ 151.

C.J.S. See 38 C.J.S., Mines and Minerals,  
§ 229.

**34-64-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Commission" means the oil and gas conservation commission of the state of Colorado.

(2) "Natural gas" means gas which has been produced from the earth in its original state or such gas after the same has been processed or treated.

(3) "Natural gas public utility" means any person, partnership, corporation, or association engaged in the business of transporting, distributing, or storing natural gas within this state for ultimate public consumption and



either authorized to do business in this state as a public utility or authorized to do business in this state as a natural gas company as defined in the federal "Natural Gas Act", and subject to regulations by the federal power commission.

(4) "Underground reservoir" means any subsurface sand, stratum, or formation suitable for the injection and storage of natural gas therein and the withdrawal of natural gas therefrom.

(5) "Underground storage" means the right to inject and store natural gas within and to withdraw natural gas from an underground reservoir.

Source: L. 53: p. 439, § 1. CRS 53: § 100-9-1. C.R.S. 1963: § 100-9-1. L. 73: p. 1072, § 1.

Cross references: For the "Natural Gas Act", see 15 U.S.C.A. 717.

**34-64-103. Condemnation - public use.** Any natural gas public utility which is engaged in the distribution, transportation, or storage of natural gas, which gas, in whole or in part, is intended for ultimate distribution to the public, has the right to enter upon, take, or use property or any interest therein which is necessary for the injection, storage, and withdrawal of natural gas in the manner provided for by this article, and by the eminent domain law of the state of Colorado, all of which property to be used is hereby recognized and declared to be devoted to public use.

Source: L. 53: p. 440, § 3. CRS 53: § 100-9-3. C.R.S. 1963: § 100-9-3.

Cross references: For eminent domain, see articles 1 to 7 of title 38.

**34-64-104. Application to commission - order.** Before the right of condemnation may be exercised for the acquisition of property or any interest therein for underground storage of natural gas, said natural gas public utility shall make application to the commission for an order approving the proposed storage project. No such order shall be issued by the commission unless it shall be based upon substantial evidence and shall contain findings that the underground storage of natural gas in the land sought to be condemned is in the public interest and welfare, and that the storage reservoir is suitable and practicable, and that the formation or formations sought to be condemned are nonproductive of oil or gas in commercial quantities under either primary or secondary recovery methods.

Source: L. 53: p. 440, § 4. CRS 53: § 100-9-4. C.R.S. 1963: § 100-9-4.

**34-64-105. Hearing - notice - review.** (1) Upon the filing of the application as specified in section 34-64-104, the commission shall set a date for hearing and give notice thereof as for proceedings in rem. in accordance with the Colorado rules of civil procedure, and shall conduct said hearing in the manner provided for in sections 34-60-108 to 34-60-110 and 34-60-114.

(2) Review of or relief from such order shall be as provided for in sections 34-60-111 to 34-60-113 and 34-60-115.

Source: L. 53: p. 440, § 5. CRS 53: § 100-9-5. C.R.S. 1963: § 100-9-5.

**34-64-106. Petition to district court - procedure.** Any natural gas public utility, having first obtained an order from the commission which has become final, desiring to exercise the right of eminent domain for the purpose of acquiring property for the underground storage of natural gas, shall do so in the manner provided in this article. Such natural gas public utility shall present to the district court of the county wherein the land or some portion thereof is situated a petition setting forth the purpose for which the property is sought to be acquired, a description of the property sought to be appropriated, and the names of the owners of the property as shown by the records of such county. The petitioner shall file the order of the commission as a part of its petition, and no decree or rule by the court granting said petition shall be entered without such order having been filed therewith. The court shall examine said petition and determine whether the petitioner has the power of eminent domain and whether said property is necessary for its lawful purposes, and if found in the affirmative such findings shall be entered in the record. All proceedings under this section shall follow the procedure then in force and effect pertaining to eminent domain.

Source: L. 53: p. 440, § 6. CRS 53: § 100-9-6. C.R.S. 1963: § 100-9-6.

**34-64-107. Property rights.** All natural gas in said underground reservoir, and the rights reasonably necessary for the injection and storage in and withdrawal from said underground reservoir of said natural gas, as defined and limited by the decree of the district court, shall be the property of said natural gas public utility. In no event shall such gas be subject to the right of the owner of the surface of said lands or of any mineral interest therein or of any person other than the public utility, its successors, or its assigns, to produce, take, reduce to possession, or otherwise interfere with or exercise any control over the gas. The right of condemnation granted by this article shall be without prejudice to the rights of the owner of said land or of other rights and interests therein to drill or bore through the underground stratum or formation so appropriated in such manner as to comply with orders, rules, and regulations of the commission issued for the purpose of protecting underground storage, strata, or formations against pollution or against the escape of natural gas therefrom, and shall be without prejudice to the rights of the owner of said lands or other rights or interests therein as to all other uses thereof. The additional cost of complying with such regulations or orders in order to protect the storage shall be paid by the public utility.

Source: L. 53: p. 441, § 7. CRS 53: § 100-9-7. C.R.S. 1963: § 100-9-7.

## Geothermal Resources

### ARTICLE 70

## Geothermal Resources

**34-70-101 to 34-70-110. (Repealed)**

Source: L. 83: Entire article repealed, p. 1424, § 5, effective June 10.

**Cross references:** For additional requirements to which publications circulated outside the executive branch are subject, see § 24-1-136; for the legislative declaration contained in the act amending subsection (2)(a), see section 1 of chapter 317, Session Laws of Colorado 1994.

**Am. Jur.2d.** See 38 Am. Jur.2d. Gas and Oil. § 148.

**C.J.S.** See 38 C.J.S., Gas, § 3; 58 C.J.S., Mines and Minerals, § 234.

**Law reviews.** For article, "Conservation of Oil Resources — Colorado's Position Today", see 22 Rocky Mt. L. Rev. 489 (1950). For arti-

cle, "Highlights of the 1955 Colorado Legislative Session — Oil and Gas", see 28 Rocky Mt. L. Rev. 53 (1955).

**Commission is creature of statute, and its authority and power is limited by statute.** Union P. R. R. v. Oil & Gas Conservation Comm'n, 131 Colo. 528, 284 P.2d 242 (1955).

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

(2) The director of the commission shall:

(a) Administer the provisions of this article:

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

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

(d) 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

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

**Source:** L. 84: p. 934, § 1. L. 94: (2)(d) amended, p.1980, § 5, effective June 2.

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

**34-60-105. Powers of commission.** (1) The commission has jurisdiction over all persons and property, public and private, necessary to enforce the provisions of this article, and has the power to make and enforce rules, regulations, and orders pursuant to this article, and to do whatever may reasonably be necessary to carry out the provisions of this article. Any delegation of authority to any other state officer, board, or commission to administer any other laws of this state relating to the conservation of oil or gas, or either of them, is hereby rescinded and withdrawn and such authority is unqualifiedly conferred upon the commission, as provided in this section. Any person, or the attorney general on behalf of the state, may apply for any hearing before the commission, or the commission may initiate proceedings upon any question relating to the administration of this article, and jurisdiction is conferred upon the commission to hear and determine the same and enter its rule, regulation, or order with respect thereto.

(2) Repealed.

(3) The attorney general shall be the legal advisor of the commission, and it is his duty to represent the commission in all court proceedings and



in all proceedings before it and in any proceedings to which the commission may be a party before any department of the federal government.

Source: L. 51: p. 655, § 7. CSA: C. 118. § 68(7). CRS 53: § 100-6-5. C.R.S. 1963: § 100-6-5. L. 81: p. 1690, § 3.

Am. Jur.2d. See 38 Am. Jur.2d. Gas and Oil. § 148.

C.J.S. See 38 C.J.S.. Gas. § 3.

Law reviews. For article. "Conservation of Oil Resources — Colorado's Position Today". see 22 Rocky Mt. L. Rev. 489 (1950).

General assembly has power to delegate to commission certain powers and authority with reference to the administration of any legislation concerning oil and gas. Union P. R. R.

v. Oil & Gas Conservation Comm'n. 131 Colo. 528, 284 P.2d 242 (1955).

This act is a comprehensive statute intended to be exclusive means of regulating development, production, and utilization of gas and oil; whether conflict exists between local regulation and statutory scheme is irrelevant in determining validity of local regulation. Osborne v. County Comm'rs of Douglas Co., 764 P.2d 397 (Colo. App. 1988), cert. denied. 773 P.2d 1370 (Colo. 1989).

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

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

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

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

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

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

(f) That no operations for the drilling of a well for oil and gas shall be commenced without first giving to the commission notice of intention to drill and without first obtaining a permit from the commission, under such rules and regulations as may be prescribed by the commission, and paying to the commission a filing and service fee to be established by the commission for the purpose of paying the expense of administering this article as provided in section 34-60-122, which fee may be transferable or refundable, at the option of the commission, if such permit is not used; but no such fee shall exceed two hundred dollars;

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

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

(i) Certificates of clearance in connection with the transportation and delivery of oil and gas or any product: and

(j) Metering or other measuring of oil, gas, or product in pipelines, gathering systems, loading racks, refineries, or other places.

(2) The commission has the authority to regulate:

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

(b) The shooting and chemical treatment of wells:

(c) The spacing of wells: and

(d) 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.

(3) The commission also has the authority to:

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

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

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

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

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

(6) The commission has the authority, as it deems necessary and convenient, to conduct any hearings or to make any determinations it is otherwise empowered to conduct or make by means of an appointed hearing officer.





gas" is the policy expressed by congress in the national gas policy act of 1978. Superior Oil Co. v. Western Slope Gas Co., 549 F. Supp. 463 (D. Colo. 1982).

**Including indefinite price escalation clauses.** The general assembly apparently intended the entire national gas policy act of 1978, including the sections which allow indefinite price escalation clauses in existing intrastate con-

tracts to operate "according to their terms", to exist as the public policy of Colorado. Superior Oil Co. v. Western Slope Gas Co., 549 F. Supp. 463 (D. Colo. 1982).

**Favored nations provision in long-term contract for purchase of intrastate gas was not contrary to public policy of Colorado.** Superior Oil Co. v. Western Slope Gas Co., 758 F.2d 500 (10th Cir. 1985).

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

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

(2) "Commission" means the oil and gas conservation commission.

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

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

(4.5) "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.

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

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

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

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

(8) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other

