

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

IN THE MATTER OF CHANGES TO THE ) CAUSE NO. 1R  
RULES AND REGULATIONS OF THE OIL & )  
GAS CONSERVATION COMMISSION OF THE ) DOCKET NO. 180100120  
STATE OF COLORADO )  
 ) ORDER NO. 1R-127  
 )  
TYPE: RULEMAKING

REPORT OF THE COMMISSION

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

Pursuant to a hearing before the Oil and Gas Conservation Commission of the State of Colorado ("Commission"), on February 12, 2018, at the Commission Wasatch Hearing Room, 1120 Lincoln Street, Denver, Colorado, the Commission promulgated amendments to its Rules of Practice and Procedure, 2 C.C.R. 404-1 ("Rules"), as described in **Appendix A**. Also attached and incorporated into this Order is the Statement of Basis and Purpose in **Appendix B**.

The "Mill Levy Rulemaking" was initiated in order to increase the Oil and Gas Conservation Levy authorized by §34-60-122(1)(a), C.R.S., by four tenths of a mill, in order to meet projected revenue shortfalls in the Oil and Gas Conservation and Environmental Response Fund established by §34-60-124, C.R.S. The Commission conducted this rulemaking pursuant to §§34-60-105(1), 34-60-108 and 34-60-122(1)(a), C.R.S. The Commission amended Rule 310 of the Commission Rules of Practice and Procedure

Following adoption by the Commission, this proposed amended rule will become effective on April 1, 2018, more than twenty days after publication by the Secretary of State on March 10, 2018, pursuant to §24-4-103(5), C.R.S.

ENTERED THIS 8<sup>th</sup> day of March 2018, as of February 12, 2018.

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

  
Julie Spence Prine, Commission Secretary

## APPENDIX A

### 310. COGCC Form 8. OIL AND GAS CONSERVATION LEVY

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 §34-60-122(1) (a) C.R.S., 1973, as amended, will file a return with the Director showing by operator, the volume of oil, gas or condensate produced or purchased during the preceding calendar quarter, including the total consideration due or received at the point of delivery. No filing will be required when the charge imposed is zero mill (\$0.0000) per dollar value.

The levy will be an amount fixed by order of the Commission. The levy amount may, from time to time, be reduced or increased to meet the expenses chargeable against the oil and gas conservation and environmental response fund. The present charge imposed, as of April 1, 2018, is \$0.0011 per dollar value.

## APPENDIX B

### **Statement of Basis, Specific Statutory Authority, and Purpose Amendments to Current Rules of the Colorado Oil and Gas Conservation Commission, 2 CCR 404-1**

#### **Cause No. IR Docket No. 180100120 Conservation Levy Rulemaking**

This statement sets forth the basis, specific statutory authority, and purpose for amendments (“Levy Rule”) to the Colorado Oil and Gas Conservation Commission (“Commission”) Rules of Practice and Procedure, 2 CCR 404-1 (“Rules”). The Commission promulgated the Levy Rule on February 12, 2018.

In adopting amendments to the Rules, the Commission relied upon the entire administrative record for this Rulemaking proceeding, which formally began on December 15, 2017, when the Commission submitted its Notice of Rulemaking to the Colorado Secretary of State.

#### **Statutory Authority.**

The Commission’s authority to promulgate amendments to the Rules is derived from the following sections of the Colorado Oil and Gas Conservation Act (“Act”), §§ 34-60-101 - 130, C.R.S.:

- Section 34-60-105(1), C.R.S. (Commission has the power to make and enforce rules);
- Section 34-60-108, C.R.S. (Commission has authority and procedure to adopt rules); and
- Section 34-60-122(1)(a), C.R.S. (Commission shall fix the conservation levy, in an amount not to exceed one and seventh tenths mill, to be assessed on the market value of all oil and gas produced, saved and sold or transported from the field in the state).

#### **Identification of New and Amended Rules.**

Consistent with its statutory authority and its legislative mandates, and in accord with the administrative record, the Commission added or amended the following Rule:

- Rule 310

#### **Overview of Purpose and Intent.**

The Colorado Oil and Gas Conservation Act, §§ 34-60-101 – 130, C.R.S. (“Act”), directs the Commission to set the conservation mill levy, an amount that may not exceed one and seven tenths mill, (“Conservation Levy”). See § 34-60-122(1)(a). The Conservation

## APPENDIX B

Levy is assessed on the market value of all oil and gas at the well. Revenue from the Conservation Levy funds the Oil and Gas Conservation and Environmental Response Fund (“OGCERF”), established by § 34-60-124, C.R.S. The revenues received from the Conservation Levy and proceeds from the tax on the severance of oil and gas provide the majority of funding for the COGCC’s operations.

Over the past three fiscal years, expenditures from the OGCERF have generally exceeded revenue by \$2-3 million per year. Out-year projections for the OGCERF show expenditures will continue to outpace revenues. Without an increase in the Conservation Levy, the OGCERF is projected to be fully depleted late in FY 2018-19.

The projected OGCERF shortfall is compounded by recent forecasts from the Colorado Department of Revenue, which show oil and gas severance tax revenues may be less in FY 2018 than previously anticipated. The projected shortfall is due to low year-to-date severance tax revenue receipts as well severance tax refunds that the Department of Revenue projects will be paid over the next 18 months as a result of the Supreme Court of Colorado’s decision in *BP Am. Prod. Co. v. Colorado Dep’t of Revenue*, 369 P.3d 281 (Colo. 2016). Without an increase in the Conservation Levy, the COGCC’s operations may be negatively impacted as a result of lower severance tax revenues.

The last time that Commission fixed the Conservation Levy was in 2007, when it increased the Levy from five-tenths mill to the current seventh-tenths mill. See Commission Order No. 1R-104. The Commission finds that it is necessary to increase the Conservation Levy so as to mitigate the impact of projected lower severance tax revenues.

### **Amendments and Additions to Rules.**

#### ***Rule 310.***

Rule 310 is amended to set the Conservation Levy to be at least \$0.0011 per dollar value.

#### **Effective Date.**

The Commission adopted the proposed amendments, which added to and amended Rule 310, at its hearing on February 12, 2018, in Cause No. IR, Docket No. 180100120. These amendments will become effective, per Section 24-4-103, C.R.S., twenty days after publication in the Colorado Register.