COLORADO
Energy & Carbon Management Commission
Department of Natural Resources

Senate Bill 23-230 Guidance

Introduction

On May 14, 2024, Governor Polis signed Senate Bill 24-230 ("SB 230") into law. SB 230 requires the Clean Transit Enterprise ("Enterprise") and the Division of Parks and Wildlife ("Division") to set and impose production fees to be paid by oil and gas producers, for the benefit of clean transit and wildlife and land remediation, respectively. The Enterprise and Division will set production fee amounts within statutorily defined ranges based upon average oil and gas spot prices each quarter.[1] The fees will apply to oil and gas production beginning on July 1, 2025.[2] On a quarterly basis, every producer of oil and gas in the State of Colorado will file a return and pay the set production fees to the Department of Revenue. The State Treasurer will disburse the fees in accordance with the requirements of SB 230.

SB 230 grants the Enterprise and the Division the exclusive authority to set and impose the contemplated production fees. Neither the Energy and Carbon Management Commission ("Commission") nor the Department of Revenue have fee-setting authority. The Department of Revenue is responsible for collecting the fees once they are set.[3] The Commission is tasked to develop and publish certain information to support the Enterprise and Division in setting the production fees. Specifically, the Commission must: 1) calculate the average natural gas spot price and average oil spot price for the previous quarter and post the spot prices on the Commission's website; and 2) routinely publish guidance to the Enterprise and Division on certain factors relevant to setting the production fee amounts.[4]

As required by SB 230, this guidance document sets forth a general assessment of the current condition of the oil and gas market and its sensitivity to changes to production fees, a brief description of each of the factors considered in forming the assessment, and specific points of interest underlying each factor, if any. The Commission also recognizes that the Enterprise may need to manage fee levels to account for the cap established by Proposition 117 during the first five years of the Enterprise.

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[1] C.R.S. § 43-4-1202(14.5); C.R.S. § 33-61-102(12); see Appendix A for the statutory rate ranges.
[2] *See* Appendix B for the Full Fee-Setting schedule for Fiscal Year 2026.
[3] C.R.S. §§ 43-4-1204(1)(c)(I); 33-61-103(1)(c)(I).
[4] C.R.S. §§ 43-4-1204(1)(b); 33-61-103(1)(b).

The Commission will routinely update and republish this guidance as is necessary to evaluate any significant developments relevant to setting the production fee amounts.

Discussion

1. Methodology

The Commission considered data and narrative economic outlooks from state and national sources, including but not limited to the Colorado Legislative Staff's March 2025 Economic and Revenue Forecast, the Colorado Governor's Office of State Planning and Budgeting's March 2025 Economic and Revenue Outlook, and the U.S. Energy Information Administration's ("EIA") 2025 Annual Energy Outlook. The Commission gave more weight to analyses and conclusions that are consistent between these sources and draws attention to any differences in conclusions to the extent those differences require consideration in setting production fees.

The Commission looked to the EIA's short-term outlook for oil and gas production and spot price projections through the end of calendar year 2026. The short-term outlook also identified any changes to spot price projections in response to the most recent policy and geopolitical developments.

All references to spot prices in this guidance refer to West Texas Intermediate (WTI) and Henry Hub spot price indexes. In order to promote transparency in all considerations in this guidance, the Commission has currently elected to limit its analysis to publicly available sources.

2. Assessment and Outlook of Oil and Gas Markets.

The oil and gas market currently faces uncertainty as new federal policies are implemented and foreign policy continues to rapidly evolve. Despite this uncertainty, state and national sources all project slight growth in oil and gas production, with oil prices expected to recede and natural gas prices expected to rise.[5]

After years of growth and stability, oil production is expected to increase through 2025. Domestic policy is focused on continuing to increase production, but anticipated international production increases from OPEC+ nations, Canada, and Brazil, a decrease in demand from

[5] Colorado Legislative Council Staff, Economic and Revenue Forecast: March 2025 (CLCS Forecast), pp. 81-82, https://leg.colorado.gov/sites/default/files/mar2025forecastwithcover.pdf; State of Colorado Governor's Office of State Planning & Budgeting, Colorado Economic & Revenue Outlook, 17 Mar. 2025 (OSPB Outlook), pp. 18-19, available at https://www.colorado.gov/governor/economics.

China, and the uncertainty surrounding the United States' rapidly evolving tariff and trade policy may alter the global demand outlook. At least in part due to these uncertainties, oil spot prices have fallen from $75.74/bbl in January 2025 to $63.54/bbl in April 2025 and are projected to continue to fall, with. near-unanimous downward price projections and general uncertainty regarding the impact of domestic and trade policy.[6]

The natural gas market is expected to remain relatively stable. After years of decline, production increased in Colorado and nationally in 2024. All sources project an increase in production, capacity, and demand.[7] Despite a significant Henry Hub spot price drop in April 2025 from seasonal impacts, natural gas spot prices are still expected to rise by the end of 2026.[8]

3. Considerations

Pursuant to C.R.S. §§ 43-4-1204(1)(b)(I)(A) and 33-61-303(1)(b)(I)(A), the Commission highlights the following factors for consideration in setting production fee amounts.

Emergencies.

The Commission considers an "emergency" to be a sudden or unexpected situation requiring immediate attention. The Commission does not identify any emergency that significantly alters the current energy outlook or impacts the above-described assessment. The Commission will consider updates to this guidance as necessitated by the occurrence of a relevant emergency.

Although the President issued an Executive Order Declaring a National Energy Emergency in January 2025[9], the Executive Order does not immediately alter the current economic outlook for oil and gas markets. It is unclear how the mandates within the Executive Order will operate within the confines of enacted state and federal legislation and whether those impacts will significantly impact oil and gas markets. The Commission recognizes that changes resulting from the implementation of the Executive Order and Declaration of a National Emergency may warrant future consideration.

National Security Needs.

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[6] Short-Term Energy Outlook, U.S. Energy Information Administration, released 6 May 2025, https://www.eia.gov/outlooks/steo/.
[7] OSPB Outlook, p. 20; Short-Term Energy Outlook, U.S. Energy Information Administration, released 6 May 2025, https://www.eia.gov/outlooks/steo/.
[8] *Id.*
[9] Exec. Order No. 14156, "Declaring a National Energy Emergency," 90 Fed. Reg. 8433 (29 Jan. 2025); https://www.federalregister.gov/documents/2025/01/29/2025-02003/declaring-a-national-energy-emergency.

In this context, the Commission considers "national security needs" to be any military, economic, or technological challenges to national and public interest. The current presidential administration has identified energy security and increasing domestic oil and gas production as national security goals. The Commission identifies federal actions in furtherance of these goals and potential changes in current global conflicts as national security needs to be considered.

As discussed above, the declaration of a National Energy Emergency and the issuance of several additional Executive Orders aim to increase domestic production through the reduction or elimination of federal regulatory burdens and increased scrutiny on state regulations that may burden the energy sector.[10] [11] Any reductions in regulatory requirements would likely decrease sensitivity to changes in production fees through lowering of associated compliance costs currently in place. However, it remains unclear what form the implementation of these Executive Orders will take, how soon their impact may be felt, and how effective they may be if production from OPEC+ and other nations continues to rise as projected, and both global demand prices fall as projected. Some sources also note that regulatory changes may carry less of an impact and production will remain market-driven, so the federal policy changes are not expected to immediately change current projections.[12]

Although concerns regarding global conflicts between Russia and Ukraine and Israel-Hamas have been raised, sources agree that these wars have not yet had a significant impact on the oil and gas markets.[13]

Extreme market disruptions.

The Commission considers "extreme market disruptions" to be any economic occurrence or policy that drastically impacts current projections or trends. For example, disruptions that result in major unanticipated changes in price and production could constitute "extreme market disruptions" and the Commission has the authority to consider these events if they occur, in future guidance to the Enterprise and Division on fee setting. The United States' policies on trade and tariffs continue to evolve rapidly, and the Commission recommends that the Enterprise and Division consider any significant and tangible new developments related to these in setting and changing production fees.

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[10] Exec. Order No. 14154, "Unleashing American Energy," 90 Fed. Reg. 8353 (29 Jan. 2025); https://www.federalregister.gov/documents/2025/01/29/2025-01956/unleashing-american-energy

[11] Exec. Order No. 14260, "Protecting American Energy from State Overreach," 90 Fed. Reg. 15513 (8 Apr. 2025); https://www.federalregister.gov/documents/2025/04/14/2025-06379/protecting-american-energy-from-state-overreach.

[12] OSPB Outlook, p. 21.

[13] CLCS Forecast, pp. 60, 81.

In April 2025, the current presidential administration imposed a 10% tariff on all imports and individualized tariffs for 57 countries, including additional raised tariffs on Canada, China, and Mexico. Soon after, the Administration suspended large portions of the originally-imposed tariffs for 90 days, until July 2025. A similar agreement with China followed in May 2025. When fully implemented, increased tariffs are expected to "reduce trade volumes, put upward pressure on prices, and dampen business investment in structures and equipment."[14] However, federal trade policy continues to rapidly evolve and the increase, implementation, and subsequent temporary pause of tariffs have created significant uncertainty in oil and gas markets, to the extent that recent short-term outlooks have not been able to take all developments into account.[15]

Prior to the imposition of tariffs, oil demand from China was already projected to decrease in 2025.[16] The recent trade agreement between the United States and China has not altered that general projection, and while the agreement may alleviate further decreases in demand, it remains unclear whether the agreement will persist beyond the 90-day suspension or another agreement will be reached.

In Colorado, increased tariffs on Canadian imports may also cause increased uncertainty. Canadian oil is Colorado's largest import and a long-term decrease in oil and other goods from Canada could likely adversely impact local producers. As discussed above, the changes in scope and duration of the tariffs make it difficult to assess an overall impact on the oil and gas market.[17] Nonetheless, long-term projections remain the same, indicating that Colorado's oil and gas production is expected to slightly increase in 2025, with some debate over whether it will begin to decline in 2026.[18]

Extreme new regulatory burdens on producers.

The Commission defines an "extreme new regulatory burden" as a recently implemented statute, executive order, rule, or regulation that has the result of drastically reducing oil and gas production.

As discussed above, federal policy changes and the recent executive orders all aim to streamline regulatory processes that impact oil, gas, and other energy production at the federal and state levels to reduce any regulatory burden on producers. The Commission will consider updates to this guidance as necessitated by the emergence of any extreme new regulatory burden on producers.

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[14] CLCS Forecast, at 57.
[15] Short-Term Energy Outlook, U.S. Energy Information Administration, released 6 May 2025, https://www.eia.gov/outlooks/steo/.
[16] CLCS Forecast, at 81.
[17] *Id.* at. 57, 82-83.
[18]CLCS Forecast, at 82-83; OSPB Outlook, p. 20.

Conclusion

The current condition of the oil and gas market is uncertain but in line with long-term projections and therefore does not change the Commission's expectations regarding the Enterprise or Division's decision to set production fees. Any increased market sensitivity to higher production fees is likely dependent on significant developments in the factors identified above. The Enterprise and Division should consider the factors enumerated in this guidance and any new developments related to those factors when setting production fees.

Appendix A

Oil & Gas Rate Ranges

The Oil and Gas Production Fee rates fluctuate based on the average spot price of oil and gas during the quarter.

Gas Spot Price means the Henry Hub Natural Gas spot price*
Oil Spot Price means the West Texas Intermediate spot price*

*As reported by the EIA or successor price index selected by the Energy & Carbon Management Commission ("ECMC").

Average Quarterly Oil Spot Price (per barrel)	Clean Transit Rate^ (per barrel)	Wildlife & Land Rate (per barrel)
$40.00 or less	$0.04	$0.01
More than $40.00 and less than or equal to $50.00	$0.12	$0.03
More than $50.00 and less than or equal to $60.00	$0.24	$0.06
More than $60.00	$0.24 with increases up to an additional $0.12 for each $10.00 increase above $60.00 or fraction thereof.	$0.06 with increases up to an additional $0.03 for each $10.00 above $60.00 increase or fraction thereof.

Average Quarterly Gas Spot Price (per MMBTU)	Clean Transit Rate Range (per MCF)	Wildlife & Land Rate Range (per MCF)
$1.40 or less	$0.0016	$0.0004
More than $1.40 and less than or equal to $1.80	$0.0064	$0.0016
More than $1.80 and less than or equal to $2.20	$0.0112	$0.0028
More than $2.20	$0.0112 with increases up to an additional $0.0048 for each $0.40 increase above $2.20 or fraction thereof.	$0.0028 with increases up to an additional $0.0012 for each $0.40 increase above $2.20 or fraction thereof.

^The Enterprise may need to manage fee levels to account for the cap established by Proposition 117 during the first five years of the Enterprise.

Appendix B

Fee-Setting Schedule for Fiscal Year 2026

July 1, 2025	Production subject to fee begins
Sept. 30, 2025	End of Q1 of 2026 Fiscal year
October 8, 2025	Deadline for ECMC to publish Q1 spot prices
November 7, 2025	Deadline for Enterprise to set production fee amounts applicable to Q1
December 1, 2025	Deadline for producers to pay Q1 Fees
December 31, 2025	End of Q2 of 2026 Fiscal Year
January 7, 2026	Deadline for ECMC to publish spot prices
February 8, 2026	Deadline for Enterprise to set production fees amounts applicable to Q2
March 2, 2026	Deadline for producers to pay Q2 Fees
March 31, 2026	End of Q3 of 2026 Fiscal Year
April 7, 2026	Deadline for ECMC to publish Q3 spot prices
May 8, 2026	Deadline for Enterprise to set production fee amounts for Q3
June 1, 2026	Deadline for producers to pay Q3 Fees
June 30, 2026	End of Q4 of 2026 Fiscal Year
July 7, 2026	Deadline for ECMC to publish Q4 spot prices
August 8, 2026	Deadline for Enterprise to set production fee amounts for Q4
August 31, 2026	Deadline for producers to pay Q4 fees