

COGCC/CECMC Suggested Administrative Legislative Provisions

COGCC drafted this memo to address outstanding administrative matters raised by bill drafters. This memo addresses renaming the COGCC to the Colorado Energy and Carbon Management Commission (“CECMC”), incorporating environmental justice principles into permitting, and regulatory authority for CCS, Underground Natural Gas Storage (“UNGS”), and Deep Geothermal Operations and other administrative matters.

Naming:

To reflect COGCC’s new role in industries other than oil and gas, the bill should rename the Colorado Oil and Gas Conservation Commission to the Colorado Energy and Carbon Management Commission. The bill should also make appropriate conforming changes in the existing Oil and Gas Conservation Act, § 34-60-101, *et seq.*, C.R.S., as well as other statutory provisions which refer to the COGCC. The bill and the existing provisions of the Oil and Gas Conservation Act should retain “Commission” as the alternative term referring to CECMC.

Environmental Justice:

The Environmental Justice Task Force recommendations are expected to result in statewide direction regarding how to address environmental justice (“EJ”) in permitting and regulation. To the extent that such direction becomes available prior to finalizing the bill draft, it should be incorporated. In the interim, the bill draft should include provisions stating that CECMC will avoid, minimize, or mitigate disproportionate environmental impacts on disproportionately impacted communities. These principles are already incorporated in COGCC’s existing rules on oil and gas permitting and are included within SB23-016 in regards to Class VI injection well permitting. While the bill should avoid upsetting the existing regulatory framework for oil and gas permitting, it should incorporate EJ principles into CECMC’s permitting and regulatory authority for CCS, UNGS, and Deep Geothermal Operations.

For UNGS, we recommend the following language:

In exercising its permitting and regulatory authority for underground natural gas storage facilities, the Commission shall avoid, minimize, or mitigate disproportionate adverse environmental impacts on disproportionately impacted communities.

For deep geothermal operations and CCS, we recommend using the same language as immediately above, but replacing “underground natural gas storage facilities” with “Deep Geothermal Operations” or “CCS operations regulated by the CECMC.” Note that for Deep Geothermal Operations, the Division of Water Resources will continue regulating associated water resources and/or rights. We are sensitive to the fact that the bill could impact DWR’s regulatory scheme, and we would like to avoid that. Therefore, incorporating EJ principles into deep geothermal operations should be phrased in such a way that it will only impact CECMC’s permitting authority for deep geothermal operations, and not DWR’s authority to regulate any associated water resources and/or rights.

Local Government Siting Authority:

To address local-government concerns regarding siting authority, the bill should specify that, when considering applications which require siting evaluations, CECMC and the relevant local government will exercise dual siting authority. Both governmental entities should approve the siting of the proposed location before the applied-for permit becomes effective. COGCC envisions a process similar to the one established for oil and gas permitting through SB19-181.

Programmatic Funding

Carrying out permitting and regulatory authority for CCS, UNGS, and Deep Geothermal resources will require additional CECMC staffing and resources. Accordingly, the legislation should authorize CECMC to collect permitting and regulatory fees associated with CCS, UNGS, and Deep Geothermal Operations.

Statement of Purpose

The legislation should contain a statement of purpose explaining CECMC's goals. While this will need to be further developed, below is our initial draft:

“The intention of this legislation is to create clear regulatory pathways for the safe deployment of subsurface and energy resources and related technologies that are protective of Colorado communities, public health, safety, welfare, and the environment, including wildlife resources. This administrative structure allows the State to encourage the use of emerging technologies to reach its greenhouse gas reduction goals, provides just transition opportunities to retain workers, supports heritage resource communities' tax base, and ensures the development of a state-led permitting approach.”

Studies

The legislation should direct the CECMC to study related topics including hydrogen and pipelines.

Hydrogen

Direct CECMC to conduct a study on hydrogen permitting and safety regulation for hydrogen production, storage, and transport. Through this study, CECMC should explore pathways for regulating hydrogen that are related or interconnected to the agency's directive and regulatory responsibilities, and evaluate and propose regulatory strategies that are protective of Colorado communities, public health, safety, welfare, and the environment, including wildlife resources.

Pipelines

Direct CECMC to examine the existing administrative structure for pipeline siting and safety regulation for operations related to or interconnected with the agency's directive and regulatory responsibilities and to report back on its findings.