

1997 SUNSET REVIEW

Compliance Advisory Panel

*Air Quality Science
Advisory Board*

*Minerals, Energy, and Geology
Policy Advisory Board*

Board of Veterans Affairs



Submitted by the
Colorado Department of
Regulatory Agencies
Office of Policy & Research

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

Office of the Executive Director
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October 15, 1997

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Roy Romer
Governor

Members of the Colorado General Assembly
c/o Doug Brown, Director
Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed an evaluation of the following advisory committees:

- the Compliance Advisory Panel to the Air Pollution Control Division in the Department of Public Health and Environment;
- the Air Quality Science Advisory Board in the Department of Public Health and Environment;
- the Minerals, Energy, and Geology Policy Advisory Board in the Department of Natural Resources; and
- the Colorado Board of Veterans Affairs in the Department of Human Services.

I am pleased to submit this written report, which will be the basis for my office's oral testimony during the 1998 legislative session. The report is submitted pursuant to §2-3-1203(2)(b)(III), of the Colorado Revised Statutes, which states in part:

"The department of regulatory agencies shall conduct an analysis and evaluation of the performance of each division, board or agency or each function scheduled for termination under this section.

The department of regulatory agencies shall submit a report containing such analysis and evaluation to the office of legislative legal services by October 15 of the year preceding the date established for termination."

The report discusses the effectiveness of the committees in carrying out the intention of the statutes and makes recommendations as to whether the above advisory committees should be continued.

Sincerely,

Joseph A. Garcia
Executive Director

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INTRODUCTION

The General Assembly found that *“advisory bodies are beneficial to government since they help involve private citizens in the daily operations of government and provide the government with a system for utilizing the expertise of its citizens.”* (§2-3-1203, C.R.S.) In 1986, in order to assure that there was a method for systematic review of the advisory committees, the General Assembly began placing repeal provisions in their authorizing statutes. This was done in order to determine whether committees had outlived their usefulness and whether they were performing the functions for which they were created.

All advisory bodies created after July 1, 1990, contain repeal provisions with a life not to exceed six years, and advisory bodies created after July 1, 1994, have repeal provisions not to exceed ten years. One year prior to the advisory committee’s repeal date, the following information is required to be submitted to the Department of Regulatory Agencies:

- *names of the current members;*
- *all revenues and expenditures, including member expenses, per diem and travel expenses;*
- *dates of all meetings and number of members attending each meeting;*
- *a list of all advisory proposals made, indicating whether or not each proposal was acted on, implemented or enacted into statute; and*
- *reasons why the advisory committee should be continued.*

COMPLIANCE ADVISORY PANEL

Creation of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program

Pursuant to §507 of the Federal Clean Air Act of 1990 (Act), the Small Business Stationary Source Technical and Environmental Compliance Assistance Program (SBTAP) was created within the Colorado Department of Public Health and Environment. A “small business stationary source” is a small business that employs 100 or fewer individuals; does not emit 50 tons or more per year of any one regulated pollutant and emits less than 75 tons per year of all regulated pollutants. The administrator of the state program, after notice and opportunity for public comment, may include a stationary source which does not meet this criteria, if that source does not emit more than 100 tons per year of all regulated pollutants. Additionally, the Administrator may exclude any stationary source that has the technical or financial capabilities of meeting the requirements of the Act. In conformance with the Act (§507(a)), the SBTAP must include adequate mechanisms for:

- developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among the sources and other persons to further compliance with the Act;
- assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products, and methods of operation that help reduce air pollution;
- assuring that small business stationary sources receive notice of their rights under the Act in a manner and form that assures reasonably adequate time for the sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under the Act;
- informing small business stationary sources of their obligations under the Act, including mechanisms for referring the sources to qualified auditors or, at the option of the State, for providing audits of the operations of the sources to determine compliance with the Act; and
- assisting small business stationary sources in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner.

Procedures must also be in place for consideration of requests from small business stationary sources for modifications of any work practice or technological method of compliance. Requests must include a schedule of milestones for implementing the new work practice and are based on the technological and financial capability of the stationary source. All modifications must be in compliance with the Act, and the requirements of the state's implementation plan.

The Department of Public Health and Environment houses the Ombudsman for small business stationary sources. The duties of the Ombudsman and the duties of the Compliance Advisory Panel mirror each other with one exception. The Panel makes periodic reports to the Governor and the Administrator of the United States Environmental Protection Agency while the Ombudsman makes its reports to Congress. These reports include the compliance of the Small Business Stationary Source Technical and Environmental Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act.

Compliance Advisory Panel Creation, Mission and Make-Up

Section 507(e) of the Act, also mandates that each state create a Compliance Advisory Panel (CAP) of not less than 7 individuals who:

- render advisory opinions concerning the effectiveness of the Small Business Stationary Source and Technical and Environmental Compliance Assistance Program, difficulties encountered, and the degree and severity of enforcement;
- make periodic reports to the Administrator of the Environmental Protection Agency concerning the compliance of the State Small Business Stationary Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;
- review information for small business stationary sources to assure such information is understandable by the layperson; and

- have the Small Business Stationary Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

Colorado's law, §25-7-109.2, C.R.S., expanded the Panel's duties to include making their periodic reports also available to the Governor of Colorado.

The Panel consists of 7 members, which include:

- two members who are not owners or representatives of small business stationary sources, appointed by the Governor to represent the general public;
- two members who are owners or who represent owners of small business stationary sources, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives;
- two members who are owners or who represent owners of small business stationary sources, one appointed by President of the Senate and one appointed by the Minority Leader of the Senate; and
- one member appointed by the Executive Director of the Colorado Department of Public Health and Environment to represent the Department.

Members serve two year terms commencing on February 1 of the year of appointment.

Meetings and Expenditures

The Panel does not generate revenue nor are members reimbursed for their expenses. Below is a listing of the meetings and the number of members in attendance:

Date	Members Attending
June, 1997	7
March, 1997	3
December, 1996	5
September, 1996	4
June, 1996	2
March, 1996	4
January, 1996	None, inclement weather
November, 1995	5
August, 1995	7

In addition to CAP members, the State Air Ombudsman, staff of the Air Pollution Control Division, staff of the Small Business Assistance Program, staff of the Wyoming Small Business Assistance Program, the Wyoming Ombudsman and Environmental Protection Agency representatives have regularly attended these meetings.

Advisory Panel Accomplishments

The Small Business Assistance Program (SBAP) submitted the following list of accomplishments for FY95-96 and 96-97.

- *Regulatory Improvements* - The CAP suggested that a diminimus level be developed below which small businesses are exempt from regulatory requirements. At present, Air Pollution Regulation No. 3 which governs reporting and permitting requirements has diminimus levels below which permits or reporting are not required. At the next CAP meeting, the SBAP will seek clarification about this proposal.

- *Pollution Prevention & Permits* - The CAP recommended that the SBAP work towards ". . . adding Pollution Prevention (P2) to permit applications as an optional way for a business to meet emission requirements." Based on the advice of the Compliance Advisory Panel, the SBAP met with the supervisor of the Stationary Sources permit writing section of the Air Pollution Control Division (APCD) to discuss the concept of P2 as a permit option. They agreed unanimously that allowing P2 options as conditions of air pollution permits may have certain advantages for both the regulated business and the regulating agency. In some cases it may allow flexibility for the business while also affecting a reduction in solid and hazardous waste, discharges to water systems and emissions of air pollutants. APCD is seriously considering the question of how to incorporate P2 as an option in an air pollution permit.
- *Memorandum of Understanding* - The CAP approved the idea that the Office of the Ombudsman, at that time under the jurisdiction of the Office of Regulatory Reform, and the Small Business Assistance Program, under the jurisdiction of the Air Pollution Control Division, draft a Memorandum of Understanding (MOU) in which the two agencies identify their mutual goals and delineate the actions each will take to reach these goals and the resources each will contribute towards these goals. An MOU was drafted for FY 95-96 and again for FY 96-97. The MOU included mutual goals and an interagency work plan. The document was used as guidance to set the direction of the outreach to small businesses. It was a very successful process. The CAP has been kept apprised of the progress made in implementing the mutual work plan.
- *Brochure* - The CAP approved the creation of a brochure to describe the functions of the Small Business Assistance Program and the Office of the Ombudsman. The brochure was completed and was distributed at workshops which were presented to specific industry segments. For example, the brochure was distributed at 10 workshops which were presented throughout the state for the dry cleaning industry. In addition, the SBAP drafted a new version of a brochure called "Are You Doing Business in Colorado?" which explains briefly the permitting and reporting process for air pollution sources.

- *Fax Network* - The CAP approved the idea of creating an environmental fax network which is used to distribute information about present and upcoming regulatory actions. The network is used to solicit comments from businesses about their compliance and technical information needs. The network resides in the Office of the Ombudsman. It contains about 400 addresses including all of the CAP members. The network has proven to be a valuable means of distributing and soliciting information.
- *Conferences* - It was recommended by the CAP that CAP chairpersons would benefit from attending the annual National Small Business Assistance Program/Small Business Ombudsman Conference or the WESTAR Fall Technical Conference. There was never available funding for these activities. The CAP chairs are welcome to attend the National SBAP/SBO conference but at their own expense. Instead the SBAP made sure that they provided reports on the conferences to the CAP.
- *ACLIN System* - The CAP approved the idea of using ACLIN (Colorado's statewide library computer system) to disseminate information about compliance requirements and technical assistance for small businesses. They now have access to the ACLIN system and the project is continuing to move forward.
- *APEN Subcommittee* - The CAP recommended that the SBAP set up a committee to redraft the APENs (Air Pollutant Emission Notices). These forms are required by regulation. They are sent in by businesses to report their emissions and material usage and are the basis for deciding if permits are required. Some of the forms are somewhat out of date. It is sometimes difficult for a business owner to fill the form out correctly. The APEN subcommittee has had one meeting to date. The SBAP has solicited some input from businesses. The process of rewriting the forms is ongoing.
- *Air Quality Control Commission (AQCC) meeting* - The Small Business Assistance Program has been giving an annual update to the AQCC since 1992. The CAP decided that it would be a good show of solidarity and mutual support to include all three elements of the Program at the AQCC briefing. The three elements are the Small Business Ombudsman, the Small Business Technical Assistance Program and the CAP itself. Staff of the SBAP, the Ombudsman, and the CAP Chair all presented the annual briefing to the AQCC. The result was as the CAP had hoped: a demonstration of how the three subparts of the Program work together in an effective manner to assist small businesses.

- *Dry Cleaner Book* - The CAP approved the idea of creating a simple-to-use workbook about the national rule for dry cleaning facilities. The idea was to create a book that would be written in simple English and would tell a dry cleaner owner how to comply with this very complicated regulation. The book was written by the Compliance, Regulatory and Small Business Assistance Unit of the APCD. The book has been a great success in aiding business owners. The book is presently on the EPA National Sharing Library Network, has been distributed to every dry cleaner in Colorado and has been used with much success as a training tool for a series of workshops for the dry cleaning industry.
- *Handbook for CAP Members* - The CAP approved the idea of creating a handbook which would be used to educate new members about the purpose and procedures of the CAP. The booklet is in draft form. Other more pressing priorities have given this project a back seat. However, the Wyoming Ombudsman has taken the draft and created a booklet for the Wyoming CAP. In essence, Wyoming completed the project for the SBAP.
- *Multi-Media Workshop* - The CAP approved the idea of a multimedia workshop to be presented in October, 1997. The workshop will offer small business owners a chance to meet with regulators from all of the environmental divisions within CDPHE. The SBAP will present the portion having to do with air quality requirements and will serve as master of ceremonies. Planning for the workshop and implementation of the various elements is well underway and the SBAP has produced a slide presentation for the workshop.
- *Survey* - Staff of the SBAP informed the CAP about a survey they would be sending out to a variety of businesses to assess their level of knowledge about the Ombudsman program. The CAP agreed that this would be a valuable tool. The survey went out to about 600 businesses. The results have been tallied by the CDPHE Information Center and are being used to enhance the effectiveness of the new Ombudsman Program which is housed in the Information Center.
- *Marketing SBAP* - The CAP agreed that it would be a good idea to reevaluate the effectiveness of the marketing used by the SBAP to reach both external and internal customers. The external customers are the small businesses while the internal customers are the permit writers and enforcement personnel. The SBAP is presently in the process of creating a marketing plan to address this issue.

- *Additional Involvement* - A suggestion by the SBAP and the Ombudsman that the CAP provide more input into their programs, possibly by presenting workshops in their areas of expertise is also being further explored.

Reasons for Continuing the Advisory Panel

The Small Business Assistance Program gave the following reasons why the Panel should be continued:

“The Small Business Assistance Program was created by the 1990 Clean Air Act Amendments to help small businesses to understand unfamiliar and complicated regulations and to defray the sometimes prohibitive expense of retaining an environmental staff. The SBAP intends to assist the small business owner as effectively as possible. Towards this end it is good quality assurance to maintain an oversight committee such as the Compliance Advisory Panel.

The duties of the CAP include review of Small Business Technical Assistance and Small Business Ombudsman activities and review the SBAP/SBO educational materials. The Colorado CAP has performed these functions admirably and enthusiastically,. The CAP provides, by proxy, representation from the small business sector and from the general population. This kind of oversight, coupled with the CAP’s eagerness to help, assures a properly run program throughout the future.

Each year the CAP provides a report to the EPA, to the Governor of Colorado and to the Air Quality Control Commission. These reports supply an objective view of the SBAP/SBO’s progress towards educating and assisting the small business community. These reports also provide a measure of the SBAP/SBO’s success in helping to reduce the burden that pollution places on the environment.

It is for these reasons that the CAP should be continued.”

Analysis and Recommendation

The primary reason for the continuation of this Panel is that it is federally mandated.

A main purpose of the CAP is to render advisory opinions concerning the effectiveness of the Small Business Stationary Source and Technical and Environmental Compliance Assistance Program, difficulties encountered, and the degree and severity of enforcement. Although the Panel has approved important projects which aide the SBAP in effectively assisting small businesses, the June 13, 1997 suggestion by the SBAP and the Ombudsman that the Panel provide more input into their programs could lead one to believe that they feel that the Panel could be more diligent in regards to this duty.

The Panel's approval of the idea to create a dry cleaning workbook and their recommendation to redraft the Air Pollutant Emission Notices are good examples of fulfilling their mandate to review information to assure that it is understandable. The dry cleaning workbook has been widely distributed and has greatly assisted dry cleaning businesses in complying with the complex federal regulation.

Although the CAP is only required to make periodic reports to the Governor and the Administrator of the EPA, the CAP has submitted these reports annually. In addition, the CAP's idea that the annual report to the AQCC be jointly presented by the CAP, the SBAP and the Ombudsman and the creation of the Memorandum of Understanding are positive steps towards successfully assisting small business stationary sources in a coordinated, effective manner.

The SBAP, the Ombudsman and the Panel are committed to fulfilling their mandates and should be continued.

AIR QUALITY SCIENCE ADVISORY BOARD

Board Mission and Make-Up

The Air Quality Science Advisory Board was created in the Department of Public Health and Environment. The Board consists of five members who are appointed by the Governor with the advice and consent of the Senate. Appointments to the Board are made to include persons with appropriate scientific, medical, and technical expertise including recognized expertise in chemical engineering, respiratory medicine, environmental health, internal medicine, toxicology, and environmental pathology. At least two members are medical doctors.

Members of the Board serve staggering, three-year terms and must disclose any potential conflicts of interest to the Governor and the committee of reference of the General Assembly prior to their confirmation. Additionally, they must disclose any potential conflicts of interest which arise during their terms of office to the Governor, to the other Board members, and to the Air Quality Control Commission (Commission). Potential conflicts of interest may include, but are not limited to, situations where the Board member is employed by or has received financial benefits from the industry being regulated or the owner or operator of the source or sources that emit hazardous air pollutants subject to review.

The Governor may remove any member of the Board for malfeasance in office, failure to regularly attend meetings of the Board, failure to perform the obligations of the appointment in a timely manner, or any cause that renders such a member incapable or unfit to discharge the duties of office. A removal, when made, is not subject to review. If any member of the Board is absent from two consecutive meetings, the Chair of the Board shall determine whether the cause of such absence was reasonable. If it is determined that the cause of the absence was unreasonable, the Chair is to notify the Governor, who may remove the member and appoint a qualified person for the unexpired portion of the regular term.

The Board is subject to the Open Meetings Law and the public records requirements of section §24-72-204, C.R.S. Members of the Board may not testify before the Commission unless the Commission requests them to do so. The technical secretary of the Commission staffs the Board as necessary. Written notice of the time and place of all meetings is mailed by the secretary at least five days in advance of any meeting to each member.

The Commission may refer any issue to the Board for their review and advice. Statutory duties of the Board include:

- performing assessments which are associated with and necessary for issuing an advisory opinion respecting requests for exemption under §25-7-109.3 (3) (d), C.R.S. These assessments by the Board must include those subjects as reasonably requested by a party to the proceeding or as determined necessary by a majority of the Board and shall include, as reasonably determined to be related to the subject of the assessment, a review of the published best scientific evidence available regarding relevant adverse human health effects. An assessment required by subsection (8) shall be as necessary to determine whether the request for exemption demonstrates a level of inconsequential risk to the public health. These assessments are required to be supported by a majority of the Board.
- offering advisory opinions to the Commission on whether the exemption will result in an inconsequential risk to the public health. These advisory opinions must include the basis for the Board's conclusion. Based upon this advisory opinion the Commission may proceed to approve the exemption. The Commission then issues its determination in writing within sixty days of completion of a hearing on the matter. Failure to grant or deny an exemption within the time prescribed is treated as a final agency action for purposes of obtaining judicial review in the district court in which the source is located.
- offering necessary advisory opinions to the Commission under §25-7-109.3, C.R.S.

In performing its duties, the Board considers the assessment, prepared by the Division, of the threat of adverse human health effects reasonably expected as a result of human exposure to the pollutants emitted or expected to be emitted by the source or sources proposed to be regulated. The assessment includes a review of the best scientific evidence available regarding the adverse human health effects, including, but not limited to, the known or reasonably anticipated carcinogenic, mutagenic, teratogenic, neurotoxic, reproductive dysfunctional, genetic acute, or chronic toxic effects of such pollutants, and the threshold of exposure below which no adverse health effects may reasonably be expected to occur, the degree to which exposure to such pollutants may be reasonably anticipated to cause adverse health effects, the antagonistic, synergistic, and cumulative adverse health effects from exposure to the pollutants, and the ambient concentrations of the pollutants.

The assessment is to be submitted to the Board for an advisory report prior to the publication of a notice of rule-making by the Commission. Any interested person may submit additional information to the Board which is pertinent to the advisory report. Notice of the submission of information to the Board is published by the Commission in the same manner as a notice of a proposed rule, and includes notice of the time allowed for the submission of additional data.

No later than sixty days following the submission of the assessment by the Division to the Board, or the publication of the notice, the Board reports to the Commission or the Division, as appropriate, on the adequacy of the assessment prepared, including any recommendations regarding additional information that should be considered by the Commission or Division, and the basis for the Board's conclusion.

Upon a request by the Board, the Commission may extend the date the Board is required to submit its report by thirty days, unless additional extensions are agreed to by the source. Upon receipt of a report from the Board, or in the event the Board fails to respond within the time provided, the Commission publishes a notice and conducts a hearing to consider adoption of the proposed regulation. The hearing is based on the Division's assessment, the Board's advisory report if available, and other relevant information before it.

Meetings and Expenditures

Members of the Board not in the full-time employment of the State may receive a fee not to exceed fifty dollars per hour, for time necessarily spent in the discharge of their duties. Additionally, members are reimbursed for traveling and other necessary expenses. These fees and expenses are charged against the Stationary Sources Control Fund.

Analysis and Recommendation

Despite repeated attempts by DORA, the statutorily required information was not provided for this review. Since the agency has failed to meet its burden of proof to demonstrate the need for the continuation of the Board, DORA recommends not continuing the Air Quality Science Advisory Board.

MINERALS, ENERGY, AND GEOLOGY POLICY ADVISORY BOARD

Creation, Mission and Make-Up

HB 92-1223 was enacted in response to controversies regarding the role, duties and interrelationships of the divisions within the Department of Natural Resources (DNR) in the areas of mineral and energy resources and development. The purpose of the bill was to create a Division of Minerals and Geology (DMG) which would coordinate efforts and combine related resource programs in these areas.

At the same time, the Minerals, Energy, and Geology Policy Advisory (MEGA) Board was created to *"advise the Colorado Department of Natural Resources and the Governor on the economically and environmentally sound development of Colorado's mineral and energy resources."*

Members are responsible for evaluating trends and policies in minerals and energy development to encourage use and conservation of Colorado's vast resources. The 17 member board is appointed by the Governor as follows: a member of the Mined Land Reclamation Board; a member of the Oil and Gas Conservation Commission; a member of the Colorado Geological Survey Advisory Committee; one member of the Coal Mine Board of Examiners; the Executive Director of the Department of Natural Resources, or his designee; four representatives of the oil and gas industry, at least one of whom must be a practicing professional geologist; four representatives of the mining industry, at least one of whom must be a practicing professional geologist; four members at large representing local government, the environmental community, and institutions of higher education, and a practicing professional geologist who is from the field of hydrogeology, engineering geology, or environmental geology.

To fill positions on the Board, the Governor solicits qualified candidates from recognized trade associations and qualified individuals in the referenced industries and appoints the industry representatives to serve on the board. To the extent possible, at least five members should be residents of Colorado west of the Continental Divide.

The ex officio nonvoting members of the board include: the Director of the Division of Minerals and Geology, the Director of the Oil and Gas Conservation Commission, and the heads of the Office of Active and Inactive Mines, the Office of Mined Land Reclamation, and the State Geologist. The Board elects its chair annually. The chair may not be an employee of the State of Colorado.

MEGA Board Responsibilities

Duties of the Board include:

- making a recommendation to the Executive Director of the DNR by June 30, 1993 on administrative efficiencies and office locations of the reorganized Division of Minerals and Geology programs and the Office of Active and Inactive Mines;
- reviewing and recommending to the General Assembly one of four locations for the Colorado Geological Survey, prior to February 15, 1993;
- assisting the Colorado Geological Survey and its advisory committee in defining the services provided and in addressing funding needs;
- planning and developing a mineral information management system, including the creation of a minerals and energy information center;
- preparing and submitting to the General Assembly, the Governor, and the Office of Economic Development an annual report on the minerals and energy industry in the state, with cooperation and information from divisions of the DNR;
- reviewing the annual budget requests, programs, and related fees or levies for the Division and the Oil and Gas Conservation Commission;
- periodically reviewing the public information plan and public relations outreach efforts for the mineral, energy, and geology programs within the Department;
- providing advice to the Executive Director and the boards, commissions, and advisory committees of the mineral, energy, and geology programs in the Department on related policy issues affecting the state; and

- developing a plan to promote the minerals, oil and gas, and geological resources of the state.

In 1996, the Board's authority was expanded to include the responsibility of making recommendations to the Executive Director regarding expenditures of severance tax revenues in a newly created, operational account within the State Severance Tax Fund. A severance tax is collected from the producers of oil, gas, coal and minerals. The tax is based on a percentage of the value of oil and gas on a cents-per-ton formula for coal and on the percentage of gross proceeds that exceeds a minimum amount for hard rock minerals. This account funds programs that promote and encourage sound natural resource planning, management and development related to minerals, energy, geology and water.

Revenues and Expenditures

The MEGA Board does not generate revenue, nor do the members receive compensation or reimbursement for their attendance at meetings.

Meetings of the MEGA Board

There is no statutory requirement for the number of times per year the Board must meet. However the MEGA Board has met at least quarterly over the last two fiscal years. Furthermore, the MEGA Board has created 5 subcommittees which include:

- the Environmental Subcommittee;
- the Legislative Subcommittee;
- the Mining Subcommittee;
- the Oil and Gas Subcommittee; and the
- Plan Subcommittee, which includes the former Public Relations/Policy and Annual Report Subcommittees.

Proposals and Their Status

The MEGA Board has consistently prepared annual reports as mandated. The reports have addressed many issues facing Colorado and the nation with regard to mining, natural resources and related topics. A copy of the most recent annual report is included as Appendix A of this report.

Shortly after their creation, the MEGA Board sent surveys to affected industries and organizations to gather information on the current status and future of their industries. The survey also sought industry perceptions of the major issues facing them and the State of Colorado as well as information on how industry felt that state agencies could provide better and more efficient services to them.

An initial mandate of the MEGA Board was to make recommendations concerning the appropriate location of the Colorado Geological Survey (CGS). The Board held a series of meetings to receive testimony and review proposals on the issue. In December of 1992, the Board decided to recommend locating the CGS in the newly created Division of Minerals and Geology.

Other Board accomplishments include:

- adopting a resolution supporting the state's position in favor of allowing private industry to lease the gas reserves within the Navajo Oil Shale Reserves in Garfield County;
- adopting a resolution endorsing proposed legislation to transfer unused money in the Uranium Mill Tailings Remedial Action Fund to the severance fund tax trust funds for use by local governments and DNR agencies;
- annually reviewing and discussing the budgets of the Division of Minerals and Geology, the Colorado Geological Survey, in addition to the Oil and Gas Conservation Commission (OGCC); and
- keeping informed of revisions to and making recommendation to the Governor on the 1872 Mining Law.

Reasons for Continuation of the Committee

The Department of Natural Resources states that “. . .The Board has allowed the Executive Director and the Divisions within the Department of Natural Resources to discuss, analyze and make decisions about important natural resource issues outside of the typical regulatory, quasi-adjudicatory framework of many state boards and commissions. It is the DNR's belief that this role should be continued and that the board should be reauthorized.”

Analysis and Recommendation

The MEGA Board is comprised of individuals representing many factions of the mineral, energy and geology environmental communities. Members are dedicated individuals who provide a wide variety of valuable input. In addition to offering their own expertise, they have sought citizen and industry input on a number of issues. They have consistently produced annual reports dealing with the many topics facing Colorado on the state and national levels. Because education about our state's dependence on minerals and energy development is critical, they have been diligent in providing important information to affected industries and the public. In spite of the fact that members do not receive monetary compensation for their travel to and from their meetings, they have met faithfully and formed additional sub-committees to address important issues facing our state.

The MEGA Board made recommendations on administrative efficiencies and office locations of the Office of Active and Inactive Mines and other DMG programs prior to June 30, 1993. In addition, they regularly receive presentations by the DMG and the OGCC on public relations activities and needs and makes recommendations for improved efficiency and coordination between DNR agencies.

The Board's ability to make recommendations on expenditures from the Operational Account is very important. The amount in the fund has exceeded \$1 million per fiscal year, with over \$3 million in FY 96/97. The members' combined knowledge is essential to the Department, the Governor and the Legislature when making decisions which effect Colorado's mineral and energy resources.”

Colorado is not only abundant in minerals, it is abundant in beauty. According to the 1993 MEGA Board report, "Sometimes these two values compete and collide. The MEGA Board is committed to the belief that both can be accommodated if treated in a fashion that realistically balances jobs and the economic health of the state with irreplaceable aesthetic values, which themselves produce equally important fiscal benefits." The Board efficiently and consistently continues to serve their purpose of advising the Governor and the Department of Natural Resources on the economically and environmentally sound development of Colorado's mineral and energy resources.

For the reasons contained in this review, it is recommended that the MEGA Board be continued.

BOARD OF VETERANS AFFAIRS

Division of Veterans Affairs' Duties

The Division of Veterans Affairs' mission is to develop and supervise a plan and standard procedures to "further prompt and efficient service to veterans in the State of Colorado, on a uniform basis, whether by the Division or any county veterans service organization." The Division of Veterans Affairs, located in the Department of Human Services, offers services to members, former members, their surviving spouses, administrators, executors, conservators, guardians or heirs of members or former members, or any other persons who have proper claims to veterans services. The Division assists these individuals by filing and prosecuting claims on their behalf for insurance, pensions, compensation, hospitalization, vocational training, education, loans, readjustment allowances or any other benefits which they may or may become entitled to receive under the laws of the United States, the State of Colorado, or any other state.

The Division was mandated to create a training and certification program for newly appointed county veterans service officers, with the approval of the Board of Veterans Affairs prior to its implementation. The Board must also approve any modifications to the program. The Division's duties in relation to county veterans service officers include:

- acting as a liaison with all county service organizations;
- making reasonable requests of county veterans service officers for their cooperation in the execution of the plan and procedures and in the handling of veterans' cases and other matters;
- maintaining liaison with the Veterans Administration and other appropriate agencies of the federal government;
- providing all county veterans service officers with pertinent information, suggestions, forms, rulings and other material in a form as the Division deems appropriate to assist all county veterans service officers in the performance of their duties;
- distributing any available bulletins, manuals, pamphlets, or other appropriate material prepared whether by the Division or elsewhere; and

- holding conferences, whenever advisable, with the county veterans service officers either in their counties or in the office of the Division or elsewhere and either singly or in groups, as the Division may deem advisable to assist the officers in their performance and to keep them properly advised of current developments in the veterans field.

Board Creation, Mission and Make-Up

The Board of Veterans Affairs was created to advise and consult with the Division of Veterans Affairs. The 7-member Board consists of veterans who have been honorably released or separated from the armed forces of the United States. Members are appointed by the Governor and confirmed by the Senate for four-year terms.

Duties of the Board include:

- proposing for adoption by the Division, rules and regulations that it deems necessary to govern the activities of the Division;
- making a continuing study of any program put into effect.
- performing other duties such as advising and assisting the Governor, any department in the Executive Branch, the General Assembly or any committee thereof in regard to veterans matters.

Meetings, Expenditures and Revenues

Although §26-10-103, C.R.S., does not mandate that the Board meet a minimum number of times per year, the Board of Veterans Affairs has met consistently over the last 2 year period. The Board met 12 times during Fiscal Year 96/97 and 11 times during Fiscal Year 95/96. Board members do not receive per diem for serving on the Board, but are reimbursed for their traveling expenses and other expenses incurred in the performance of their official duties. During FY 96-97 this amount totaled \$6,987.21 and \$7,087.15 for FY 95-96.

The chart below shows the attendance at FY 95/96 and FY 96/97 meetings.

FY 96/97			FY 95/96		
Date	# Members Attending		Date	# Members Attending	
6-11-97	4	1 vacancy	6-12-96	5	
5-14-97	5	1 vacancy	5-8-96	6	
4-9-97	5		4-18-96	6	
3-31-97	6		3-19-96	4	2 vacancies
3-12-97	6		2-14-96	4	2 vacancies
2-12-97	5		1-10-96	5	2 vacancies
1-8-97	7		12-13-95	6	1 vacancy
12-11-96	5		11-8-95	6	1 vacancy
11-13-96	5		10-11-95	5	1 vacancy
10-2-97	4		9-13-95	6	1 vacancy
9-22-96	6		7-12-95	5	1 vacancy
7-10-96	6				

The Board of Veterans Affairs does not generate revenue.

Council Accomplishments

Following is a list of Board proposals and their status:

- 4-97 The Board proposed that the Division of Veterans Affairs submit management reports reflecting workload statistics on a semi-annual basis. The reports are to be submitted to the Board in July and again in January. Management reports were received by the Board at their July meeting. Although no recommendations were made at that time, the Board will continue to monitor the Division's workload.
- 4-97 The Board wrote a letter to RTD encouraging their voluntary implementation of a Veterans Preference in Employment policy. As a result, the RTD Board has directed its staff to develop policies and procedures for implementation.
- 3-97 The Board actively supported HB 97-1320. This bill proposed the creation of a veterans cemetery in the town of Grand Junction on the Western Slope. The bill passed the Legislature and updates regarding the establishment of this cemetery are presented at regular meetings.

- 2-97 The Board wrote a letter endorsing and recommending passage of SB 97-112 which concerned the Department of Human Services' authority to administer the State Veterans Nursing Homes. This bill was a result of the 1996 Sunset Review, which was passed and signed by the Governor.
- 2-97 The Board proposed and adopted the goal of ensuring the "adequate care and maintenance of the Colorado Veterans Monument by the State of Colorado". Due to problems such as littering, drug-dealing, smoking and graffiti by pro-marijuana demonstrators, the Board proposed a resolution that clarified the State Capitol Complex's responsibilities for maintaining the monument.
- 7-96 The Board reviewed and endorsed the Department of Human Services' proposal to construct a state veterans nursing home as part of the redevelopment of Fitzsimmons. This proposal was made part of the Fitzsimmons Redevelopment Plan. *(In March, 1996, the Board contacted the Capitol Development Committee to introduce the plan. The CDC approved the Board's proposal subject to their approval of funding for the design and other project phases, and the acceptance of the proposal by the Fitzsimmons Redevelopment Authority (FRS).)*
- 4-96 The Board wrote a letter of support for increasing the funding for County Veterans Service Officers. This proposal was included in the Department of Human Services' 1998 Budget Request. However, the funding was turned down by the Joint Budget Committee.
- 2-96 The Board endorsed SB 96-135 which provided increased funding for County Veterans Service Officers.
- 2-96 The Board reviewed, approved and recommended submission to the General Assembly, the Interim Report on the Feasibility of a State Veterans Nursing Home in metro Denver area. This report was required by SB 95-139. The report was presented to the General Assembly for their review and comment. This was the first step in the process to establish a State Veterans Nursing Home in the Denver metro area.
- 7-95 The Board recommended to the Governor that the Uniform Guardianship of Veterans Statute be reviewed and amended to encourage the appointment of better qualified guardians. However, no action was taken on this recommendation.

Additionally, the Board has recommended that the Division of Veterans Affairs be present on the Internet to promote awareness of their programs. Although the Division currently lacks the computer capabilities, they are responsive to the idea and are working toward that goal.

Reasons for Continuing the Advisory Committee

The Board gave the following reasons for their continuation:

“The Board of Veterans Affairs is the major means for the review and input of private citizens into the operation of state veterans programs. The Board performs this valuable function by requiring regular reports from the management of the Department of Human Services, the Department of Labor and Employment and other agencies operating programs serving veterans. The Board holds meetings at the State Veterans Nursing Homes and Domiciliary where it gathers information from staff and patients regarding the delivery of care and services.

During these meetings at the State Veterans Homes, the Board is able to review the delivery of health care and other services and make recommendations for improvements. They also gather information for long term planning and legislative changes. An example of this function was the Interim Report on the Feasibility of a State Veterans Nursing Home in the Denver Metro Area submitted to the General Assembly in January, 1996. In addition, the Board recommends legislative and programmatic changes for the County Veterans Service Officers on a regular basis. The Board receives regular reports on the activities of the County Veterans Services Officers and the Division of Veterans Affairs and attends the Division Training Conferences for County Veterans Service Officers as a means to study this program. Additionally, the President of the County Veterans Service Officer Association regularly attends Board meetings. The Board has recommended or supported several legislative changes for this important veterans program.

If the Board of Veterans Affairs is not continued, Colorado would lose its most effective vehicle for citizens input into veterans programs.”

Analysis and Recommendation

The Board is required to perform duties such as advising and assisting the Governor, any department in the Executive Branch, the General Assembly or any committee thereof in regard to veterans matters. The Board endorsed the creation of Colorado's new cemetery and nursing home for veterans. They have been instrumental in obtaining locations for these facilities and are kept apprised of current developments at their regular meetings.

The Board has met consistently and receives reports from the Division of Veterans Affairs, the Division of State Nursing Homes and the Department of Labor and Employment - Veterans Employment and Training Services. The President of the County Veterans Service Officers Association is also present at the Board's meetings as a representative of the counties. The Board members also receive input from other County Service Officers at conferences put on by the Division of Veterans Affairs. The Board is kept apprised of the activities of the County Service Officers and will be receiving results of surveys completed by the Officers' clients.

The Board is mandated to study the problems of veterans and to propose programs to provide necessary assistance to veterans. The Board has studied numerous problems, including implementation of the State Constitution requirement for Veterans Preference in public employment and the need for a State Veterans Home in the Denver area. Additionally, the Board urged RTD to implement a veterans preference in hiring policy, which was ultimately adopted.

The Board is committed to, and active in, veteran outreach and activities. They have had a positive effect on the performance of the Division and the County Veterans Service Offices. It is the recommendation of this report that the Board of Veterans Affairs be continued.

MEGA Board/1996

Annual Report of the Minerals, Energy & Geology Policy Advisory Board
Colorado Department of Natural Resources

WHAT IS THE MEGA BOARD?

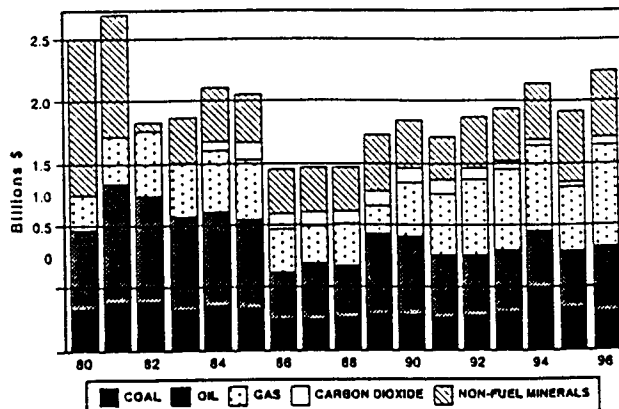
The State Minerals, Energy and Geology Policy Advisory Board is a citizens committee established by the state legislature in 1992 to advise the Colorado Department of Natural Resources and the governor on the economically and environmentally sound development of Colorado's mineral and energy resources. It is comprised of representatives from the coal and hardrock mining industry, the oil and gas industry, academia, local governments, state government and environmental groups. The current members and the groups they represent are:

William T. Cohan, Grand Junction (Colorado Mined Land Reclamation Board); Bruce Johnson, Greeley, (Colorado Oil and Gas Conservation Commission); Lawrence A. Cernilo, Evergreen, (Colorado Geological Survey Advisory Committee); Edgar F. Bolton, Craig (coal mine board of examiners); Michael B. Long, director, Division of Minerals & Geology, representing the Executive Director of the Department of Natural Resources; Laura L. Wray, Denver, a practicing professional geologist (oil and gas industry); John D. Longwell, Evergreen (oil and gas industry); Thomas J. Vessels, Denver (oil and gas industry); John F. (Jeff) Welborn, Littleton (oil and gas industry); Holly Huyck, Lakewood, a practicing professional geologist (mining industry); Robert G. Beverly, Grand Junction (mining industry); Michael L. Ripp, Delta (gravel and aggregate mining industry); Michael Rounds, Littleton (mining industry); James S. Evans, Rifle (local governments); John E. Tilton, professor at the Colorado School of Mines (institutions of higher education); Robert K. Turner, Boulder (environmental community); Marian Fournier, Wheatridge, a practicing professional geologist (environmental geologists).

Inside:

- Production/permitting stats
- Outreach
- Rules & regulations
- Publications

Colorado Mineral & Mineral Fuel Production, 1980-1996



Mineral and energy industries are economic pillars

The Department of Natural Resources estimates that the annual value of the coal, natural gas, oil and carbon dioxide produced in Colorado equals about \$1.4 billion. This amount, combined with the estimated \$578 million in mineral production, makes mining and energy production about a \$2 billion industry. Not including the \$717 million in wages and the \$117 million in local property taxes paid each year, these revenue estimates are roughly equal to the revenues generated by Colorado's ski industry each year!

The MEGA Board and the DNR believe that the continued health of the mining and energy industry are important to all Coloradans. They have pledged to work together to ensure the state's mineral and mineral fuel resources are developed in an environmentally sound manner. This report provides more information about the board and the DNR's activities related to the mining and energy industries. If you have questions, please contact any of the divisions mentioned in this report for more information.

Severance tax changes signed into law

On June 12, 1996, Governor Romer signed into law SB 96-170, which splits the state portion of the severance tax trust fund into two accounts. The perpetual account will be used for loans to construct water projects. The operational account will fund programs that promote and encourage sound natural resource planning, management and development related to minerals, energy, geology and water. The bill also appropriated \$3.172 million to be spent in FY 96-97.

This law resulted from work the MEGA Board began on May 12, 1995, when they voted to form a Severance Tax Task Force to study the collection and distribution of severance taxes. A severance tax is collected from the producers of oil, gas, coal and minerals—all non-renewable resources—based on a percentage of the value of oil and gas, on a cents-per-ton formula for coal, and on the percentage of gross proceeds that exceeds a minimum amount for hard-rock minerals.

"The bill was the result of months of discussions by representatives of counties, municipalities, the mining industry, the oil and gas industry, environmental interests and state government [who] came together to address a mutual concern—the fact that the state portion of severance tax revenue has not been used as intended," said MEGA Board chair Jim Evans.

"The oil and gas and mining industries should be commended for their success in working together. As a result, we have a new constructive and far-reaching law that will benefit the environment, the industries that pay severance tax and the public statewide," said DNR Executive Director Jim Lochhead.

Board resolutions, 1996

MARCH. MEGA Board Adopts Resolutions—At its March 29 meeting in Denver, the MEGA Board:

- Adopted a resolution supporting the state's position in favor of allowing private industry to lease the gas reserves within the Naval Oil Shale Reserves in Garfield County.
- Adopted a resolution endorsing proposed legislation to transfer unused money in the Uranium Mill Tailings Remedial Action Fund to the severance tax trust funds for use by the local governments and DNR agencies.

JULY. MEGA Board agrees to fund CGS review of Land Board resources —When the MEGA Board met in Denver on July 12 it also recommended the use of \$100,000 in severance tax money for the state geologist to study the mineral and energy resources of approximately 4 million acres of State Land Board property.

"Since Colorado voters may approve an initiative that changes the way state lands are managed, it is important to find out which of those lands contain valuable mineral and energy resources. Once the State Land Board has the information it will be in a better position to make good natural resource decisions," said MEGA Board chair Jim Evans.

OCTOBER. MEGA Board asks subcommittees to address mining and energy issues—At its Oct. 4 meeting in Ignacio, the board reactivated several subcommittees, including ones on oil and gas, mining and planning.

The oil and gas subcommittee will coordinate its efforts with those of the COGCC and the DNR to address issues that have been raised by oil and gas trade associations regarding regulations, agency budgets and promotional efforts.

The mining subcommittee will discuss the need to add a "Good Samaritan" clause to the federal Clean Water Act, to facilitate the clean-up of mine sites, and make recommendations to the board. The mining subcommittee will also discuss the need to provide minerals information to the Front Range Backdrop Coalition, which consists of citizens and local governments seeking to preserve open space. The board feels it is vital that decision makers have access to the best available data before decisions are made.

The planning committee will review the board's statutory charge and existing planning documents to determine whether clarifications or changes need to be made now that the bill redirecting some severance tax revenue has become law.

State Trust Lands Resolution Adopted—At its October meeting the MEGA Board also adopted a resolution stating that before future decisions are made regarding state trust lands, the State Land Board should consider the information that will be provided by the CGS in the form a mineral inventory.

Severance Tax Expenditures Approved—On Oct. 4, 1996, the MEGA Board gave final approval to Department of Natural Resources severance tax expenditure recommendations for Fiscal Year 1997-1998; the expenditures again total about \$3 million. These recommendations will now proceed through the normal state budget process, which includes approval by Governor Romer and the General Assembly.

Specific funding recommendations include:

COLORADO GEOLOGICAL SURVEY

Geologic Mapping	\$117,324
Mineral Fuel Development	260,106
Water Quality Data Bank	176,440
Geological Hazards Response	186,130
TOTAL:	740,000

OIL & GAS CONSERVATION COMMISSION

Restore Accelerated Drilling Staff	\$ 88,000
Restore Conservation Fund to Cap	123,045
Increase Environmental Response Fund (ERF)	200,000
Restore ERF Balance	100,000
Mineral Assessment, State Land Board	60,000
La Plata County Field Hearing	5,135
Document Filing System	48,300
Technology Enhancements	
Wang Migration/Phase II	456,000
Document Imaging System	346,000
TOTAL:	\$1,432,000

DIVISION OF MINERALS & GEOLOGY

Fund Emergency Response	\$500,000
Coal Program Contingency Funds	160,000
Mineral Assessment, State Land Board	40,000
Alluvial Gravel Study	50,000
Minerals Program Contingency Funds	100,000
Mine Safety Program Contingency Fund	50,000
TOTAL:	\$900,000

WATER CONSERVATION BOARD

Local Water Planning	\$100,000
TOTAL:	\$100,000

GRAND TOTAL EXPENDITURES: \$3,172,000

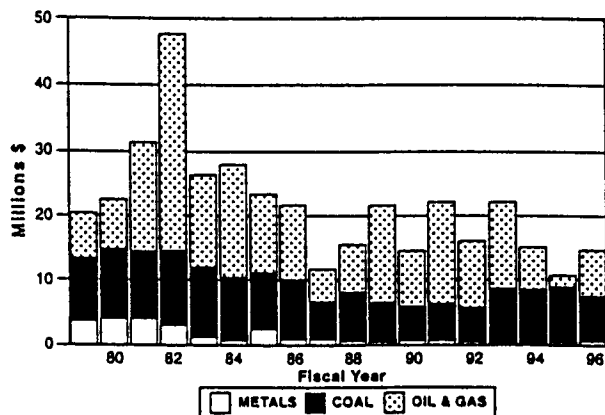
DECEMBER. At its December 13 meeting in Denver, the MEGA Board discussed issues surrounding implementation of Amendment 16, which changes the structure and mission of the State Land Board; heard an update on severance tax expenditures from COGCC and CWCB staff; and learned about the role the board can play in recovery of declining species in riparian areas.

The group also elected new officers for 1997: Bob Turner, who represents environmental interests, will serve as chair; Laura Wray, who represents oil and gas interests, will serve as vice-chair; and Ed Bolton, who represents coal mining interests and the state Board of Coal Mine Examiners, was elected secretary.

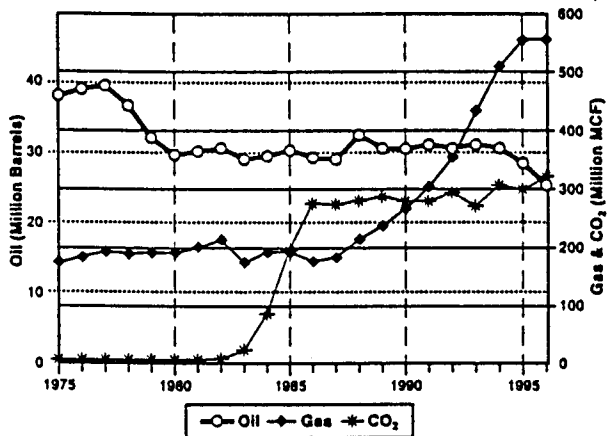
The board also voted to send a letter to the Colorado Mining Association and trade associations urging them to participate in DNR efforts to implement a Declining Species MOU with the Department of Interior. The group also decided to send a letter to Governor Romer reiterating its position that extractive uses of trust lands are temporary uses and therefore are not incompatible with the purposes of the Stewardship Trust established by Amendment 16.

Colorado Mineral & Mineral Fuels Statistics

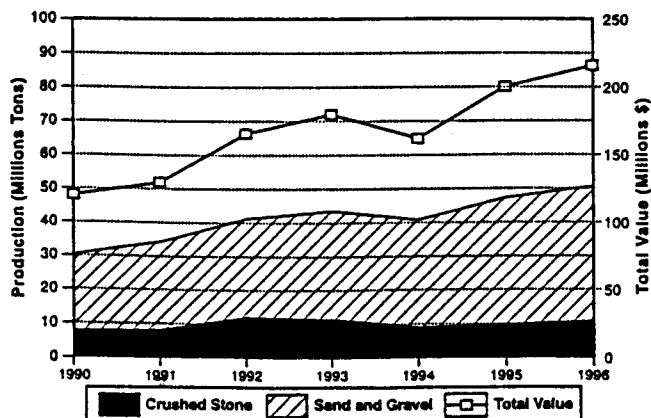
Severance Tax Revenues, 1979-1996



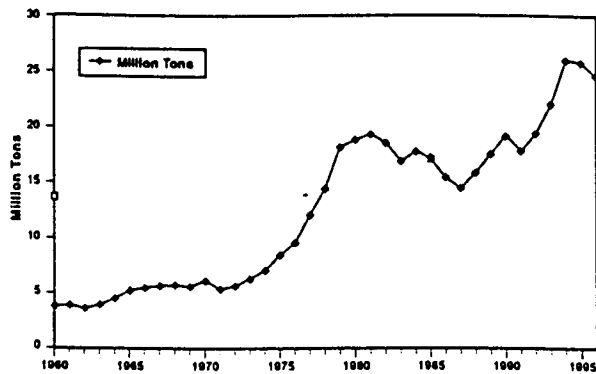
Oil, Gas & CO₂ Production, 1975-1995



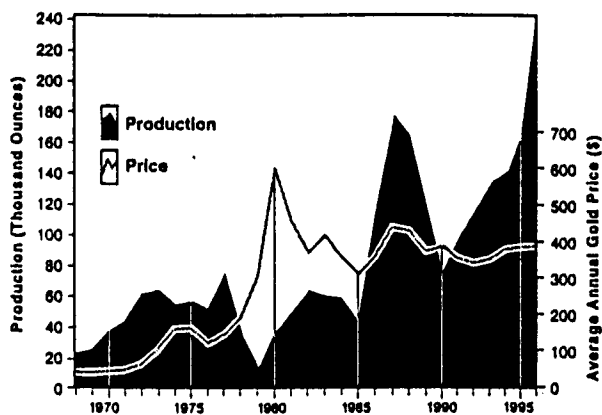
Aggregate Production, 1990-1996



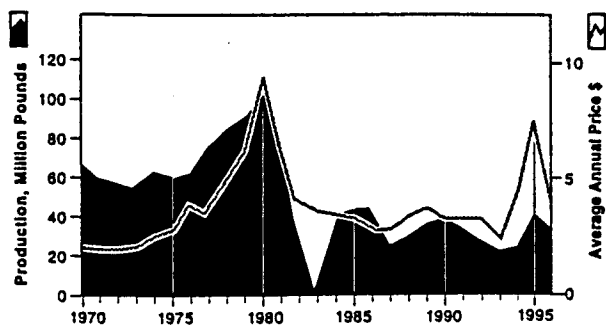
Coal Production, 1960-1995



Gold Production, 1970-1995



Molybdenum Production, 1970-1995



All graphs are taken from the Colorado Geological Survey's *Colorado Mineral and Mineral Fuel Activity, 1996*, by James A. Cappa, Carol M. Tremain and H. Thomas Hemborg.

COGCC rulemaking

Since March 1996, the Colorado Oil and Gas Conservation Commission (COGCC) has adopted new statewide oil and gas well reclamation rules and new safety rules. The commission has also begun working with a stakeholder team on new rules for financial surety. These new rules mark the third, fourth and fifth sets of regulations the COGCC has tackled. The rules were developed as a result of Senate Bill 94-177, which gave the COGCC the authority to regulate oil and gas operations to prevent and mitigate adverse environmental impacts on air, water, soil or biological resources.

A stakeholder team consisting of representatives from the oil and gas industry, the environmental community, agricultural interests and local government worked for months to draft a set of comprehensive oil and gas reclamation rules designed to address the wide variety of conditions encountered across Colorado. The Commission began hearing testimony on the rules in the fall of 1995, and the new rules went into effect June 1, 1996.

The new reclamation rules require an operator to file pre-disturbance information with each application for a permit to drill that identifies the current land use, soil type and the kinds of plant communities that exist, so that the land can be appropriately reclaimed. The new rules also require: advance notice of commencement of oil and gas

operations to surface owners and local governments; consultation with surface owners and local governments before commencement of operations; fencing of drill sites and access roads on cropland; segregation of soils during excavation to protect topsoil; minimizing surface area disturbed by well sites and access roads; and interim and final reclamation, including pit backfill, access road closure, soil compaction alleviation, recontouring and revegetation.

The new reclamation rules also include requirements for the installation of oil and gas well flowlines, which are pipelines used to transport oil and gas to a lease measurement point, and produced water to a disposal facility.

On June 24, 1996, the COGCC amended statewide Safety, Blowout Prevention and Plugging and Abandonment rules following a year of negotiations involving the oil and gas industry, local government, a fire marshal representative and environmentalists. The new rules establish specific blowout prevention requirements; establish procedures for statewide bradenhead testing requirements; establish specific casing, plugging and cementing requirements for aquifer protection; and streamline and clarify the high-density area designation process and modify specific safety rules for high-density areas.

Division of Minerals & Geology update

DMG Permitting Update—Two programs of the Division of Minerals and Geology, the Coal Program and the Minerals Program, issue permits and oversee reclamation of active mine sites. The Minerals Program's 23 full-time employees oversee permits on 1,748 active mines and 412 prospecting operations. In the fiscal year that ended June 30, 1996, Minerals staff performed 1,002 inspections, issued 78 new permits and completed 379 permit revisions. The Coal Program's 25 employees regulate 63 small and large coal mines, which produced nearly 26 million tons of coal in 1995. In FY 1995-1996, the staff conducted 724 inspections and 278 permit actions. (By law, Coal staff are required to inspect each active coal mine monthly.)

DMG Survives Federal Budget Impasse—The federal budget impasse of 1996 forced the Division of Minerals and Geology to focus on the effect of federal cutbacks on the state's coal program and the development a new protocol regarding individual state regulation of the coal mining industry.

In 1996, the state expected to receive \$80,000 less from the Office of Surface Mining to run its coal mining regulatory program.

In addition, because no bill appropriating money for agencies within the Department of the Interior had been enacted by the beginning of the new federal fiscal year, no federal grants to states were distributed. As a result, Colorado received no money to run the state program mandated by the Surface Mining Control and Reclamation Act until late spring 1996.

Division director Mike Long also traveled to Washington, D.C., to discuss a new regulatory protocol with OSM officials. The state has been working for about a year and a half to develop an agree-

ment that would allow the OSM to consider each state's unique mining and environmental characteristics in determining whether a state's regulatory program meets federal requirements. In the past, the OSM has developed national guidelines and forced each state to comply with them.

DMG Continues to Safeguard Abandoned Mines—In 1996 DMG undertook reclamation work at over 250 abandoned mine sites in Colorado. The sites are located in the historic mining districts of Boulder, Clear Creek, Gilpin, Hinsdale, Huerfano, Las Animas and San Juan counties. Project work was completed by various local contractors at an estimated cost of \$588,000.

"Colorado's mining legacy has left many abandoned mines scattered across the state, and accidents, including fatalities, occur almost every year," said Dave Bucknam, director of the Abandoned Mine Reclamation Program. "We are aware of 17 deaths and 21 serious injuries involving inactive or abandoned mines since 1955."

The division has been safeguarding abandoned/inactive mines since 1980. Of the estimated 23,000 abandoned mines, 4,260 have been made safe so far. The program is funded through the Department of the Interior by reclamation fees paid by active coal mine operators. Funding for sites in the gaming areas of Central City and Black Hawk also comes from gaming revenues.

Mines are safeguarded using a methods that include concrete caps, metal grates, backfilling, blasting and polyurethane foam.

Geological Survey publishes maps. . . directories. . . books

Here's a list of publications produced by the Colorado Geological Survey during 1996:

January 1996. "Potential Metal-Mine Drainage Hazards in Colorado, Based on Mineral-Deposit Geology" (Map Series 29), compiled by the CGS, the U.S. Geological Survey and the BLM.. The first in a series of maps designed to aid in the prediction and assessment of potential watershed degradation in mineralized areas.

July 1996. 1. "Basement Structure Map of Colorado with Major Oil and Gas Fields" (Map Series 30). Full-color map shows structure contours and pinpoints the 73 gas fields whose cumulative production as of Jan. 1, 1995 exceeded 5 billion cubic feet of gas, as well as the 129 oil fields whose cumulative production as of Jan. 1, 1995 exceeded 1 million barrels of oil. 2. "Colorado Mineral and Mineral Fuel Activities, 1995-96" describes current activity and new developments in producing mines and oil and gas fields, as well as the economic development of the mineral and mineral fuel industries. 3. "1995 Summary of Coal Resources in Colorado" describes

the location, geology, coal-bearing formations, coal rank and analysis and coal production statistics of the eight coal regions and 21 coal fields in the state.

August 1996. 1. "Active Permitted Mine Operations in Colorado, 1995-1996" lists all active permitted and producing mines in Colorado, county by county, with mine type and commodity produced—from sand and gravel to gemstones. 2. "Geologic Map of the Cattle Creek Quadrangle, Garfield County, Colorado" (Open File Report 96-1); and "Geological Map of the Center Mountain Quadrangle, Garfield County, Colorado" (Open File Report 96-2). provide baseline geologic data for two quadrangles located in the area south and west of Glenwood Springs.

October 1996. *The Snowy Torrents: Avalanche Accidents in the U.S. 1980-86* includes stories, illustrations and statistics on avalanche accidents. Includes a table of accidents since 1910 and tips on how to avoid and survive avalanches.

1996 Outreach highlights, division by division

Division of Minerals & Geology

Land Use and Mining Workshops for Local Governments—DMG staff held two of these workshops in 1996: June 11 in Craig and August 13 in Buena Vista. The workshops are intended to provide information to county and municipal officials about the DMG and the permitting of mine operations and development of mineral resources. The workshops also help counties review their own gravel mining operations.

DMG Hosts Workshop for Tourist Mines and Museums—On May 1, DMG sponsored a workshop for tourist mines and museums at the National Mining Hall of Fame and Museum in Leadville.

Coal Basin Mine Tour—On July 12 DMG hosted two tours of Pitkin County's Coal Basin Mine; over 50 local residents participated.

Craig Disaster Days—On July 24 and 25 the DMG's Mine Safety & Training Program co-sponsored the Northwest Colorado Rescue Rendezvous in Craig. The rendezvous—the first of its kind in the U.S.—was designed to inform, educate and train emergency service workers on how to respond effectively to an underground mine safety disaster.

Geological Survey

CGS Holds Two Geological Hazards and Engineering Practices Conferences—On March 22 and again on May 13, CGS sponsored conferences called "Geologic Hazards and Engineering Practices in Colorado" in Colorado Springs. Session topics included swelling soils, landslides, debris flows, rockfall, radon, subsidence and hydro-compactive soils. The conferences included half-day field trips.

CGS/RMAG Oil & Gas Outreach Program—CGS partnered with the Rocky Mountain Association of Geologists and the Colorado Oil & Gas Association to distribute a free packet of information about Colorado's oil and gas industry to the state's secondary schools.

CGS Outreach Targets Fairs & Festivals—Additional CGS outreach efforts included sponsoring a booth at the Colorado Oil and Gas Association's Natural Gas Conference in Denver on Aug. 12, 13 and 14; staffing an exhibit at the "Taste of Colorado Festival" called "The Importance of Mining and Minerals"; sponsoring a booth and selling publications at the Denver Gem and Mineral Show on Sept. 13, 14 and 15; and sponsoring a booth and providing two speakers at the "Geology and Resources of the Paradox Basin" conference in Durango on Sept. 19 and 20.

Oil & Gas Conservation Commission

COGCC Staff Give Water Quality Presentation—On Aug. 12 COGCC staff made their annual water quality presentation to the state Water Quality Control Commission. COGCC staff updated the WQCC on specific ground water protection projects, monitoring efforts and statewide data collection. Under state law, the COGCC has the primary responsibility for mitigating impacts to ground water from oil and gas operations.

COGCC Hosts Reclamation Workshops—In May, the COGCC sponsored two one-day seminars to familiarize operators with new statewide rules on soil segregation and erosion control—May 28 in Greeley and May 30 in Rifle. In October, the commission hosted workshops on all the provisions of the new statewide reclamation rules—in Grand Junction Oct. 1, Durango Oct. 3 and Denver Oct. 10.

DIVISION ADDRESSES & PHONES

Division of Minerals & Geology. 1313 Sherman #215, Denver 80203; 303/866-3567. ♦ **Colorado Geological Survey.** 1313 Sherman, #715, Denver 80203; 303/866-2611. ♦ **Colorado Oil & Gas Conservation Commission.** 1120 Lincoln #810, Denver 80203; 303/894-2100. Reach the MEGA Board c/o Dan McAuliffe, DNR Executive Director's Office, 1313 Sherman #718, Denver 80203; 303/866-3311.

Small Business Stationary Source Technical and Environmental Compliance Assistance Program Statute

25-7-109.2

(1) The commission shall promulgate such rules, regulations, and procedures as are necessary to establish and administer the Colorado small business stationary source technical and environmental compliance assistance program consistent with the requirements of the federal act.

(2) There is hereby created a compliance advisory panel which shall:

(a) Render advisory opinions concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered, degree of enforcement, and severity of penalties;

(b) Make periodic reports to the governor and the administrator of the United States environmental protection agency;

(c) Review information for small business stationary sources to assure such information is understandable by the layperson; and

(d) Oversee the small business stationary source technical and environmental compliance assistance program, which shall serve as the secretariat for the development and dissemination of such reports and advisory opinions.

(3) The panel shall consist of:

(a) Two members who are not owners or representatives of owners of small business stationary sources, appointed by the governor to represent the general public;

(b) Two members who are owners or who represent owners of small business stationary sources, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives;

(c) Two members who are owners or who represent owners of small business stationary sources, one appointed by the president of the senate and one appointed by the minority leader of the senate; and

(d) One member appointed by the executive director of the department of public health and environment to represent such department.

(4) The terms of those members of the panel initially appointed by the governor, the speaker of the house of representatives, and the minority leader of the house of representatives shall expire on January 31, 1994. The terms of those members initially appointed by the president of the senate, the minority leader of the senate, and the executive director of the department of public health and environment shall expire on January 31, 1995. Thereafter, members of the panel shall serve for terms of two years, such terms to commence on February 1 of the year of appointment. Vacancies occurring during the term of office of any member of the panel shall be filled for the unexpired portion of the regular term in the same manner as for the original appointment.

(5) In furtherance of the small business stationary source technical and environmental compliance assistance program established as provided in subsection (1) of this section, the office of regulatory reform, created pursuant to section 24-34-903, C.R.S., shall serve as ombudsman for small business stationary sources.

Editor's note: This version of subsection (5) is effective until July 1, 1997.

(5) In furtherance of the small business stationary source technical and environmental compliance assistance program established as provided in subsection (1) of this section, the department of public health and environment shall serve as ombudsman for small business stationary sources. The department shall carry out the ombudsman duties using personnel outside of the air pollution control division.

Editor's note: This version of subsection (5) is effective July 1, 1997.

(6) The general assembly finds, determines, and declares that this section is enacted for purposes of compliance with the provisions of section 507 of the federal act. For purposes of complying with the provisions for the legislative review of advisory committees of state government contained in section 2-3-1203 (1), C.R.S., subsections (2), (3), and (4) of this section and this subsection (6) are repealed, effective July 1, 1998. Prior to said repeal, the compliance advisory panel shall be reviewed by a legislative committee of reference, designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S.

Air Quality Science Advisory Board -Statute

25-7-109.4

(1) There is hereby created in the department of public health and environment the air quality science advisory board, which shall consist of five members who shall be appointed by the governor with the advice and consent of the senate.

(2) (a) Appointments to the board shall be made so as to include persons with appropriate scientific, medical, and technical expertise including recognized expertise in chemical engineering, respiratory medicine, environmental health, internal medicine, toxicology, and environmental pathology. At least two shall be medical doctors. No member of the board shall be employed by, or receive financial benefits from, the Colorado department of health, except for serving on this board.

(b) Members of the board shall disclose any potential conflicts of interest to the governor and the committee of reference of the general assembly prior to confirmation and shall disclose any potential conflicts of interest which arise during their terms of office to the governor, to other board members, and to the commission during a public meeting of the board. Potential conflicts of interest include, but are not limited to, situations where the board member is employed by or has received financial benefits from the industry being regulated or the owner or operator of the source or sources that emit hazardous air pollutants subject to review.

(c) No member of the board, while a member of the board, may testify before the commission unless requested to do so by the commission.

(3) The terms of the members of the board shall be for three years, and said terms shall commence in July of the year of appointment; except that, of the members appointed to take office in 1993, one shall be appointed for a one-year term, two shall be appointed for two-year terms, and two shall be appointed for three-year terms. Appointments shall be made in such manner that the terms of the members are staggered in the sequence specified in this subsection (3). Any vacancy occurring during the term of office of any member shall be filled by appointment by the governor of a qualified person for the unexpired portions of a regular term. Such appointment to unexpired portions of a regular term shall be subject to the advice and consent of the senate.

(4) The governor may remove any member of the board for malfeasance in office, failure to regularly attend meetings of the board, failure to perform the obligations of the appointment in a timely manner, or any cause that renders such a member incapable or unfit to discharge the duties of office, and any such removal, when made, shall not be subject to review. If any member of the board is absent from two consecutive meetings, the chair of the board shall determine whether the cause of such absence was reasonable. If it is determined that the cause of the absence was unreasonable, such chair shall so notify the governor, who may remove the member and shall appoint a qualified person for the unexpired portion of the regular term.

(5) Each member of the board not otherwise in the full-time employment of the state shall receive a fee for such member's services which shall not exceed fifty dollars per hour, for time necessarily spent in the discharge of official duties; and all members shall receive traveling and other necessary expenses actually incurred in the performance of official duties. Such fees and expenses shall be charged against the stationary sources control fund.

(6) The board shall be subject to the open meetings law, part 4 of article 6 of title 24, C.R.S., and the public records requirements of section 24-72-204, C.R.S. The technical secretary of the commission, created in section 25-7-105, shall staff the board as necessary. Written notice of the time and place of all meetings shall be mailed by the secretary at least five days in advance of any such meeting to each member.

(7) All members of the board shall have a vote. A majority of the board shall constitute a quorum, and the concurrence of a majority of the board in any manner on an issue shall constitute a majority opinion of the board.

(8) The duties of the board shall be as follows:

(a) (I) To perform assessments which are associated with and necessary for issuing an advisory opinion respecting requests for exemption under section 25-7-109.3 (3) (d). Such assessments by the board shall include those subjects as reasonably requested by a party to the proceeding or as determined necessary by a majority of the board and shall include, as reasonably determined to be related to the subject of the assessment, a review of the published best scientific evidence available regarding relevant adverse human health effects. An assessment required by this subsection (8) shall be as necessary to determine whether the request for exemption demonstrates a level of inconsequential risk to the public health.

(II) The assessment required by this paragraph (a) shall be supported by a majority of the board.

(III) Pursuant to this subsection (8), the board shall offer an advisory opinion to the commission on whether the exemption will result in an inconsequential risk to the public health and shall include in its advisory opinion the basis for the board's conclusion. Based upon this advisory opinion the commission may proceed to approve the exemption. The commission shall issue its determination respecting a request for exemption in writing within sixty days of completion of a hearing on the matter.

(IV) Failure of the division or commission, as the case may be, to grant or deny an exemption under section 25-7-109.3 (3) (d) within the time prescribed shall be treated as a final agency action for purposes of obtaining judicial review in the district court in which the source is located.

(b) To offer the necessary advisory opinions to the commission under section 25-7-109.3.

(8.5) The commission may refer other issues to the board for review and advice as appropriate.

(9) (a) In performing its duties, the board shall consider an assessment, prepared by the division, of the threat of adverse human health effects reasonably expected as a result of human exposure to the pollutants emitted or expected to be emitted by the source or sources proposed to be regulated. Such assessment shall include a review of the best scientific evidence available regarding such adverse human health effects, including, but not limited to, the known or reasonably anticipated carcinogenic, mutagenic, teratogenic, neurotoxic, reproductive dysfunctional, genetic acute, or chronic toxic effects of such pollutants, and the threshold of exposure below which no adverse health effects may reasonably be expected to occur, the degree to which exposure to such pollutants may be reasonably anticipated to cause such adverse health effects, the antagonistic, synergistic, and cumulative adverse health effects from exposure to such pollutants, and the ambient concentrations of the pollutants.

(b) The assessment required by paragraph (a) of this subsection (9) shall be submitted to the board for an advisory report prior to publication of notice of rule-making by the commission under section 25-7-109.3. Any interested person may submit to the board additional information pertinent to the advisory report within a period of time to be prescribed by the commission. Notice of the submission of such information to the board shall be published by the commission in the same manner as a notice of a proposed rule, and shall include notice of the time allowed for the submission of additional data.

(c) Not later than sixty days following the submission of the assessment by the division to the board, or the publication of the notice required by paragraph (b) of this subsection (9), the panel shall report to the commission or the division, as appropriate, regarding the adequacy of the assessment prepared in accordance with paragraph (a) of this subsection (9), including any recommendations regarding additional information to be considered by the commission or division, and the basis for the panel's conclusion.

(d) Upon a request by the board, the commission may extend the date the board is required to submit its report by thirty days, unless additional extensions are agreed to by the source.

(e) Upon receipt of a timely report from the panel, or in the event the panel fails to respond within the time provided in paragraph (c), or paragraph (d) if applicable, of this subsection (9), the commission shall publish a notice and conduct a hearing to consider adoption of any regulation proposed under section 25-7-109.3. The hearing shall be based on the division's assessment, prepared pursuant to paragraph (a) of this subsection (9), the board's advisory report if available, and such other relevant information before it.

(10) (a) This section is repealed, effective July 1, 1998.

(b) Prior to said repeal, the air quality science advisory board shall be reviewed as provided for in section 2-3-1203, C.R.S.

Minerals, Energy, and Geology Policy Advisory Board Statute

34-20-104

(1) There is hereby created in the department of natural resources the minerals, energy, and geology policy advisory board. The advisory board shall consist of seventeen members appointed by the governor as follows: A board member of the mined land reclamation board; a board member of the oil and gas conservation commission; a member of the Colorado geological survey advisory committee; one member of the coal mine board of examiners; the executive director of the department of natural resources, or the designee of such executive director; four representatives of the oil and gas industry, at least one of whom shall be a practicing professional geologist; four representatives of the mining industry, at least one of whom shall be a practicing professional geologist; and four members at large representing local government, the environmental community, and institutions of higher education, and a practicing professional geologist who shall be from the field of hydrogeology, engineering geology, or environmental geology. The method of selecting said industry representatives shall be accomplished in the following manner: The governor shall solicit qualified candidates from recognized trade associations and qualified individuals in the referenced industries. The governor shall appoint the industry representatives to serve on the board from each list so developed. The ex officio nonvoting members of the board shall include: The director of the division of minerals and geology, the heads of the office of active and inactive mines, the office of mined land reclamation, the state geologist, and the director of the oil and gas conservation commission. The board shall elect its chair from the membership of the board on an annual basis, who shall not be an employee of the state of Colorado. To the extent practicable, at least five members of the advisory board shall be residents of Colorado west of the continental divide.

(2) Appointments shall be made no later than August 30, 1992.

(3) The advisory board shall:

(a) Explore and quantify administrative efficiencies and office locations of the division's programs and make recommendations concerning them to the executive director prior to June 30, 1993. In addition, the board shall examine and make recommendations to the executive director prior to June 30, 1993, concerning the functions and duties of the office of active and inactive mines, particularly with respect to those functions transferred from the division of mines.

(b) Develop and plan a mineral information management system, including the creation of a minerals and energy information center;

(c) Prepare and submit to the general assembly, the governor, and the office of economic development an annual report on the minerals and energy industry in the state, with cooperation and information from divisions of the department of natural resources;

(d) Review the annual budget requests, programs, and related fees or levies for the division and the oil and gas conservation commission;

(e) Review periodically the public information plan and public relations outreach efforts for the mineral, energy, and geology programs within the department;

(f) Provide advice to the executive director and the boards, commissions, and advisory committees of the mineral, energy, and geology programs in the department on related policy issues affecting the state;

(g) Assist the Colorado geological survey and its advisory committee in addressing the funding needs and services provided by the survey;

(h) Develop a plan to promote the minerals, oil and gas, and geological resources of the state;

(i) Repealed.

(j) Provide advice to the executive director on programs or projects that should receive a grant of funds from the operational account of the severance tax trust fund as set forth in section 39-29-109, C.R.S.

(4) (a) This section is repealed, effective July 1, 1998.

(b) Prior to such repeal, the advisory board created in this section shall be reviewed as provided in section 2-3-1203, C.R.S.

Editor's note: Subsection (3)(i) was in an act that was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution. In that event, it will take effect on the date of the official declaration of the vote by proclamation of the governor if it is approved by the voters at the 1996 election.

Board of Veterans Affairs Statute

26-10-103

(1) There is hereby created the Colorado board of veterans affairs to advise and consult with the division in the administration and enforcement of this article. The board shall consist of seven members who shall be appointed by the governor and confirmed by the state senate, who shall be veterans who have been honorably released or separated from the armed forces of the United States, but who need not be members of a veterans service organization.

(2) All regular appointments shall be for a term of four years, beginning the day after the expiration of the preceding term. Vacancies occurring during any term shall be filled by the governor for the unexpired portion of the term in which they occur. If a vacancy occurs while the senate is not in session, the governor shall appoint a qualified person to discharge the duties thereof until the next meeting of the senate, at which time the governor shall nominate a person to fill the vacancy, which nomination shall be subject to senate confirmation. Members of the board shall hold office until their successors are appointed by the governor and are confirmed by the senate. Not more than four of the members serving at any one time shall be members of the same political party.

(3) The members of the board shall serve without compensation but may be reimbursed, out of any funds appropriated to the division, for actual and necessary traveling and other expenses incurred in the performance of official duties.

(4) The members of the board shall select one of their members to serve as the chair of the board and one to serve as the vice-chair of the board. Such officers shall hold office at the pleasure of the board. The board shall also appoint a secretary who may or may not be a member as the board may determine. The secretary shall attend all meetings of the board, keep a full and true record of its proceedings, preserve at its general office all its books, documents, and papers, and perform such other duties as the board may prescribe.

(5) The board shall hold meetings at such times and at such places as shall be determined by it. Special meetings may be called at any time by the chair or vice-chair and shall be called at the request of any three members.

(6) (a) This section is repealed, effective July 1, 1998.

(b) Prior to said repeal, the Colorado board of veterans affairs shall be reviewed as provided for in section 2-3-1203, C.R.S.