

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 13-0952 **Date:** April 23, 2013
Prime Sponsor(s): Rep. Hullinghorst; Salazar **Bill Status:** House Health, Insurance and Environment
Fiscal Analyst: Alex Schatz (303-866-4375)

TITLE: CONCERNING THE COLORADO OIL AND GAS CONSERVATION COMMISSION'S ADOPTION OF UNIFORM STATEWIDE GROUNDWATER SAMPLING RULES.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures		
Cash Funds		
Oil and Gas Conservation and Environmental Response Fund	\$27,655	\$43,025
FTE Position Change	0.1 FTE	0.6 FTE
Effective Date: August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2013-2014: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill requires the Colorado Oil and Gas Conservation Commission (COGCC) to adopt uniform groundwater sampling rules, applicable to any new oil and gas production well or any injection well subject to COGCC regulation in the state. Under the bill, COGCC rules must:

- require operators to sample, before drilling, up to four groundwater sources within one-half mile of the new well;
- require operators to re-sample each of these sources within 12 months after the well has been completed, and again re-sample each groundwater source between 5 and 6 years after the well is complete; and
- address the use of samples obtained from existing groundwater sources, if the COGCC elects to allow the use of existing water quality data.

Background

Under current law, the COGCC must consider cost-effectiveness and technical feasibility when it adopts rules for oil and gas operations that prevent or mitigate adverse impacts to water and other environmental systems. On January 13, 2013, the COGCC adopted rules requiring oil and gas operators to conduct groundwater sampling of up to four groundwater wells before, during, and after the implementation of a new oil and gas well.

Different rules apply to the Greater Wattenberg Area (GWA), as well as coalbed methane wells. According to the COGCC, groundwater sampling rules are "adjusted in the GWA due to the combination of energy development, agriculture, and other industrial and residential use unique to the area. In addition, the state program will exist side-by-side with a well-developed Weld County-led program that provides water well testing to any well owner requesting it."

The GWA is situated primarily in southern Weld County but also in parts of Adams, Boulder, Broomfield, Denver, Jefferson, and Larimer Counties. The GWA accounts for an estimated 600 of 1,800 drilling permit applications each year in Weld County. Under rules recently adopted by the COGCC, one groundwater sample prior to drilling and one subsequent sample are required for new wells in the GWA. Most new wells in the GWA are within one-half mile of at least four existing groundwater wells.

There are approximately 5,000 coalbed methane wells in the state, with less than 150 applications for new wells estimated per year. These wells are concentrated in the Raton Basin (Las Animas County) and the San Juan Basin (La Plata and Archuleta Counties), with limited development also in the Piceance Basin (Garfield and Rio Blanco Counties). Under current rules for new coalbed methane wells, operators must obtain samples from two groundwater sources prior to drilling, with additional samples from each source three times throughout the life of the well.

State Expenditures

The bill increases expenditures in the Department of Natural Resources by \$27,655 in FY 2013-14 and by \$43,025 in FY 2014-15. These increased expenditures are the result of one-time costs for COGCC rulemaking in FY 2013-14 and ongoing costs to process additional groundwater samples beginning after new COGCC rules take effect in FY 2013-14. Details of increased expenditures in the DNR are provided in Table 1.

Table 1. Expenditures Under HB 13-1316		
Cost Components	FY 2013-14	FY 2014-15
Personal Services	\$10,614	\$42,455
FTE	0.1	0.6
Operating Expenses - DNR Staff	0	570
Capital Outlay - DNR Staff	2,822	0
Operating Expenses - COGCC hearing	11,129	0
Legal Services	3,090	0
TOTAL	\$27,655	\$43,025

Rulemaking. In FY 2013-14, a three-day hearing will be required for the COGCC to conduct the rulemaking mandated by the bill. An estimated cost of \$14,219 for the rulemaking process includes meeting room rental, travel and lodging expenses for members of the commission, and costs for legal support in preparation for and at the hearing. The availability of technical information generated for prior COGCC rules concerning groundwater sampling will limit the amount of additional staff work to prepare for the hearing, and staff workload will not require new appropriations. The fiscal note assumes that rulemaking takes place in the first half of FY 2013-14, and that the new uniform groundwater sampling rule takes effect January 1, 2014.

Processing of groundwater samples. Beginning on January 1, 2014, COGCC rules will require additional groundwater sampling for an estimated 625 new oil and gas wells each year, primarily in the GWA but also including a small number of new coalbed methane and injection well sites (estimated at 25 of 625 affected wells). For each affected well location in the GWA (estimated at 600 of 625 affected wells), the uniform groundwater sampling rule will require 3 additional samples prior to drilling and 3 additional samples at the completion of drilling. As a result, the fiscal note assumes that the COGCC staff will process 1,800 additional pre-drilling groundwater samples and 1,800 additional samples within 12 months of completion.

The process for COGCC staff following the operator's submission of groundwater sample data includes verification that the well meets locational criteria; that operators are compliant with all sampling requirements; and that further investigation of water quality is, or is not, warranted. Each groundwater sample requires an average of 20 minutes for COGCC technical staff to process.

In FY 2013-14, the impact of the bill is prorated to reflect that the rule is in effect for only 6 months of the fiscal year, starting January 1, 2014, and that submission of groundwater samples for completed wells will not begin until FY 2014-15, at least 6 months after the new COGCC rule takes effect. For 900 additional pre-drilling groundwater samples that are assumed to be submitted in the second half of FY 2013-14, the COGCC will require 300 hours of additional staff support, or 0.1 FTE, at a cost of \$13,436.

In FY 2014-15, the COGCC will process 3,600 additional groundwater samples, requiring 1,200 hours of staff support. The bill requires additional appropriations to the COGCC of \$43,025 and 0.6 FTE for fiscal years between FY 2014-15 and FY 2017-18. Beginning in FY 2018-19, the bill requires an additional sample for each affected well, for a total of 6,300 additional samples and a cost of \$75,246 and 1.0 FTE in FY 2018-19 and future fiscal years.

Cash funds in the Oil and Gas Conservation and Environmental Response Fund are available to cover the costs of COGCC workload.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under HB 13-1316*		
Cost Components	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$680	\$4,046
Supplemental Employee Retirement Payments	652	2,948
TOTAL	\$1,332	\$6,994

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

This bill may affect local government expenditures for cities, towns, and counties within the GWA or in other areas of the state containing potential coalbed methane operations. Specifically, the bill may reduce expenditures by shifting from an affected local government to operators the cost to sample additional groundwater wells, either in response to complaints or where the local government provides additional sampling as part of a monitoring program, as in Weld County. On a one-time basis in FY 2013-14, the bill may increase expenditures for local governments participating in the COGCC rulemaking process. Overall, the bill is anticipated to result in minimal impacts to local government expenditures.

State Appropriations

For FY 2013-14, the Department of Natural Resources requires an appropriation of \$27,655 cash funds from the Oil and Gas Conservation and Environmental Response Fund, and 0.1 FTE. Of this amount, \$3,090 is reappropriated to the Department of Law for legal services.

Departments Contacted

Natural Resources
Local Affairs
Law

Public Health and Environment
Personnel and Administration
Judicial

Counties
Municipalities