Docket DC-16-0004: Amendments to Oil and Gas Development Regulations:
Public Meeting to consider proposed Land Use Code amendments addressing oil and gas development within the Boulder County Land Use Code

Board of County Commissioners
March 23, 2017
2:00 p.m.
Today’s Agenda - March 23

I. County staff presentation

II. Board of County Commissioners discussion and action on regulations

*The opportunity to provide public testimony regarding this item was at the public hearing on March 14th. No additional public testimony will be taken today.

All public comment received to date is available on the County’s oil and gas website at:

http://www.bouldercounty.org/dept/landuse/pages/oilgas.aspx
CO Supreme Court Decisions

• In May 2016 two CO Supreme Court rulings invalidated fracking bans and long-term moratoria
  ➢ City of Longmont v. Colo. Oil and Gas Ass’n
  ➢ City of Fort Collins v. Colo. Oil and Gas Ass’n

• In light of these decisions, the BOCC terminated the temporary moratorium through July 2018 and establish a new moratorium until May 1, 2016 in order to update the regulations adopted in 2012 and prepare for their successful implementation
Recent Moratorium & Current Update

- Regulations adopted in 2012 needed updating to address:
  - Industry’s shift toward large-scale, consolidated facilities
  - Concerns with intensity of oil & gas development
  - Additional information about impacts
  - Rulemakings at the State level (Governor’s Task Force, etc.)
  - Concerns with impacts on community and environment
OVERVIEW - Proposed Regulations

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Application Submittal Requirements (12-500)
Applicants must submit detailed information on the proposal, including:
- Siting plan showing location of proposed wells and associated facility
- Plan showing existing structures within one (1) mile from the operation
- Map showing other wells and oil and gas operations within one (1) mile of the proposed site
- Analysis of at least three (3) alternative site locations
- Air quality plan + Water quality plan
- Emergency preparedness and response plan
- Mitigation plans for impacts on agricultural land, land disturbance, cultural and historic resources, geologic hazard, natural resources, and scenic attributes and rural character

Review Process/Public Involvement (12-400)
- Pre-application conference, which may involve a site visit to begin to identify potential site-specific concerns
- Neighborhood meeting with adjacent and surrounding landowners and other interested parties
  - Must occur at least 20 days after the pre-application conference + 14-day notice
  - An application cannot be submitted for 20 days following the neighborhood meeting and must include summary from meeting
- “Waitlist,” Application Submittal, and Completeness determination - 45 days
- Notice to landowners and owners of water wells and to residents (physical address) within ½-mile prior to application submittal and again before drilling commencement
- Public notice signage
- Referrals to county departments, fire district, County Sheriff, adjacent municipalities, school district and any necessary technical consultants
- Planning Commission and Board of County Commissioners public hearings
- If the proposed well is on or near county open space, Parks and Open Space Advisory Committee (POSAC) review may be required

DC-16-0004 Amendments to Oil and Gas Development Regulations
OVERVIEW - Proposed Regulations

• The proposed regulations employ our **local land use authority** to **protect** public health and the environment

• County will require **Special Use Review** for all new oil & gas development

The regulations are:

- Comprehensive
- Inclusive
- Protective
- Specific
- Enforceable
Some of the more defining components include:

- Air quality monitoring
- Hydrocarbon emissions control measures, including use of infra-red cameras & LDAR
- Water well sampling and testing
- Conditions of approval that will reduce impacts to the site/area/resources, including location, use of pipelines to reduce truck traffic, adjustment of pad dimensions, use of shared infrastructure, visual buffering, and landscaping, etc.
- Disruption payments to surrounding occupants who are affected by drilling activities
- Emergency preparedness and response plan
- Reporting, monitoring, and inspections
Public Review of Proposed Regulations

Previous meetings

✔ Wednesday, Oct. 12 Planning Commission public hearing
✔ Thursday, Oct. 27 Planning Commission public meeting
✔ Tuesday, Nov. 15 Board of County Commissioners public hearing
✔ Thursday, Nov. 17 Board of County Commissioners public meeting
✔ Tuesday, Mar. 14, 2 p.m. Board of County Commissioners public hearing
March 14, 2017 BOCC Direction

• Staff presented the revised Draft Regulations at a BOCC public hearing on March 14, 2017
  • Public Testimony was taken
• The *Revised* Draft Regulations presented today reflect direction given to staff by the BOCC on March 14th
Containment of onsite spills

- Edits made to Section 12-701(C) adding the ability to condition approvals on operators using **pitless systems** and constructing **containment berms** or other containment devices around storage tanks and production facilities

  - Prevent migration of onsite contamination and help prevent surface and groundwater contamination caused by onsite spills
Comprehensive planning information

• Added a requirement in Section 12-400(B)(2)(a) to include number of estimated “well sites” (in addition to number of wells) as part of the comprehensive planning information to be submitted as part of the operator registration provisions.
Site Visit

• Added consideration of other site-specific features for review during the site visit that takes place as part of the pre-application conference before an Applicant submits an application for Special Use Review (Section 12-400(D)(3))
Notice of Application

- Changed “water well owners” to “water source owners”
- Added “secure” to “methods of delivery” for required notice
- Added “lessees” of parcels within ½ mile of a proposed facility

(Section 12-400(H)(1) and (2))
Decommissioned Wells

• Added a requirement to identify the wells to be decommissioned within the next 5 years (Section 12-500(I))

As-built plans

• Clarified that as-built plans of approved oil and gas facilities that are required as part of the Emergency Preparedness Plan are not needed until a facility is completed (Section 12-500(M))
Public Availability of Information

• **Leaks and spills** – County will develop protocols for posting reports of spills and leaks on the public website.

• **Inspection and monitoring** – Make regular reports from LDAR program (for hydrocarbon emissions) available to the public.

(Sections 12-700(X) and 12-701(A)(2))
Spill Volume Estimates

- Added the **estimated worst case liquid spill volumes** to be included along with information on any existing and proposed lines of various types (Section 12-500(J)(12))
Pipelines and Transmission Lines

- Clarified review of lines under Article 12 vs. Article 4
- Clarified delineation of types of lines and pipes to which provisions apply
- Included “existing or proposed” development for consideration of pipeline siting
- Added “without compromising pipeline integrity and safety” to provision allowing for consolidation of pipelines in the same ditch or ROW
- Removed duplicative pipeline LDAR requirements and kept most restrictive version
- Modified definitions of transmission lines to exclude federally-regulated lines
  (Sections 12-600(K), 4-514(E), and 12-700(S))
Water Testing

• Increased frequency of post-completion water testing to require water testing to occur within **6 months** after completion, between **12-18 months**, and again between **60-72 months** after completion.
Well Integrity

• Added a requirement for **bradenhead monitoring** and reporting as a way of detecting **well integrity issues**
• Expanded emergency preparedness plan to include specifications on **how well integrity problems would be addressed**
  
  (Sections 12-701(B)(3)(b), 12-500(M))
Reclamation, Revegetation, and Weed Control

• Clarified the improvements on the well pad are subject to COGCC reclamation requirements
• Revegetation plan is required for any off-pad disturbance
• Added weed control in any off-site pipeline easement areas

(Section 12-700(T) and (GG))
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Recommendations:

- Changes to state and federal legislation
- Changes to COGCC rules
- Statewide Ballot Initiatives

Multi-Pronged Approach for Oil & Gas Control:

- Public Health
- Land Use Code
- Transportation Impact Fees
- State Legislative Changes
- State Regulatory Changes
- Boulder County Comprehensive Plan
- Education
- Agreements (MOUs)
- COGCC
- Operators
- Ombudsman
**Recommendation**

- County’s objective is to **protect public health, safety, welfare, and environment**
- Draft Regulations are intended to **reduce incompatibility** and **minimize potential land use conflicts** between oil and gas operations and surrounding land uses

The proposed Land Use Code amendments meet the criteria in Art. 16-100 of the Land Use Code. Staff recommends that the Board of County Commissioners **APPROVE**

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(including Appendix B from March 14, 2017 – Disruption Payments)