

Boulder County Land Use Department



DC-12-0003: Amendments to Oil and Gas Development Regulations

Public Meeting for the Planning Commission to consider proposed Land Use Code amendments addressing oil and gas development within the Boulder County Land Use Code

October 30, 2012

4:00 p.m.

AGENDA

1. COUNTY STAFF PRESENTATION

a. **Revisions to Draft Regulations** - Kim Sanchez / Jeff Robbins (Land Use Department / Outside Counsel)

b. **Maps** - David Haines (Land Use Department, GIS)

- 1000' setback from occupied structures
- Existing well pads

2. PLANNING COMMISSION DISCUSSION AND ACTION

- Provide recommendation to the Board of County Commissioners on the Draft Regulations



TODAY'S PUBLIC HEARING

Today's Planning Commission public meeting is to consider the revised Draft Regulations, which were developed by Staff in response to the direction received from the Planning Commission on October 17.

Included in Planning Commission's October 17 motion (Attachment B) was:

- Recommendation (4-1 vote) to **extend the moratorium** for an additional 3-6 months
- Recommendation for a **1000' setback** from occupied structures (vs. 1500') for the Expedited DPR eligibility siting criteria
- Authorization of a number of other **minor edits**, which are addressed individually in the table

Additionally, Staff has continued to meet with COGA and Encana to get their feedback.



FUTURE OPPORTUNITIES FOR INPUT

Board of County Commissioners' Review of Draft Regulations:

- ***Tuesday November 13, 2012 at 4:00 P.M.*** - Staff will present the Draft Regulations to the Board of County Commissioners (BOCC). The BOCC will take public comment concerning the Draft Regulations.
- ***Thursday November 15, 2012 at 9:00 A.M.*** – Follow-up meeting for the BOCC to discuss and provide direction to Staff following the November 13 public hearing. This will be a public meeting but no public testimony will be taken.

Meetings to follow will be posted on the County's oil and gas website:

<http://www.bouldercounty.org/dept/landuse/pages/oilgas.aspx>



FOLLOW-UP FROM 10/17: COUNTY WATER POLICY

During Planning Commission's October 17 discussion there was question regarding whether the **County's water policy** addresses **sale/lease of county water rights for energy development**.

- County's current water policy does not directly speak to use of water rights for energy development, but it is **highly unlikely that any County-owned water rights could be used for energy development**.
- Unlike other jurisdictions such as Aurora, Greeley, Ft. Lupton, and Windsor, the **County is not a water service provider**. As a result the County does not own extensive water rights that could be available to sell for this use or any other industrial use. The water rights the County does own would not be available for the following reasons:
 1. Water rights can only be used for the purposes for which they were decreed and Boulder County only owns water rights that it acquired in connection with the acquisition of agricultural land. Most ditch companies in which Boulder County owns shares are limited to the beneficial use of agricultural irrigation. It would take a change of the water right through water court to allow for additional uses.
 2. Almost all of Boulder County's water rights were purchased with the proceeds from open space sales taxes and usage of the water rights is restricted to open space purposes as defined in the sales tax resolutions.



PROPOSED REVISIONS #1, #2, #3, #4

Planning Commission Motion	Staff Response / Proposed Revision
1. Air monitoring	
Consider adding more details in air section, borrowing from water quality provisions, both on area of well site/operation being regulated as well as exact substances being regulated.	✓ No edits made to Draft Regulations. See memo from technical consultant (Mike Matheson) – Attachment D.
2. Silica dust	
Need more explicit regulation addressing silica dust.	✓ No edits made to Draft Regulations. See memo from technical consultant (Mike Matheson) – Attachment D.
3. Coordination with Office of Emergency Management (OEM)	
Commissioner Young made suggestions as to how to incorporate the Office of Emergency Management (OEM)'s comments into the Draft Regulations Emergency Response Standards.	✓ Edits made to Section 12-703(D)(2)(c) and (k). ✓ Chemical Disclosure (Section 12-800.E) was put back into the Draft Regulations.
4. Non-VOCs (Hydrogen sulfide)	
<ul style="list-style-type: none"> Focusing emissions controls and monitoring on VOCs may miss some important volatile compounds, such as hydrogen sulfide. Investigate whether requirements should be expanded to include other known noxious emissions from production equipment, compressors, diesel engines, etc. 	✓ No edits made to Draft Regulations. See memo from technical consultant (Mike Matheson)– Attachment D.



PROPOSED REVISIONS #5, #6

Planning Commission Motion	Staff Response / Proposed Revision
5. Water quality table	
Commissioner Shanks provided some recommended changes to the water quality table (following Section 12-603 on p. 15).	✓ Edits made to Table 1. Water Quality Analytes (p. 15).
6. Dan Frazier edits (submitted at October 17, 2012 Planning Commission)	
Incorporate suggested edits proposed by Dan Frazier at the October 17 public hearing (see Attachment E).	✓ Made the recommended edits to Section 12-100(B).



PROPOSED REVISIONS #7, #10

7. Transportation requirements for Expedited and Standard DPR

- Given the timing of the on-going Oil & Gas Roadway Impact Study, Planning Commission will defer the details regarding Transportation requirements to the Board of County Commissioners (BOCC) for review.
- Planning Commission would like to see the final Oil & Gas Roadway Impact Study once it is available in order to provide comments to the BOCC, understanding this may not occur before the BOCC makes a final decision on the Draft Regulations.

✓ Staff is continuing to rework the Transportation requirements with input from the Transportation Department.

10. Timeline for review of adopted regulations

Planning Commission would like the adopted regulations to undergo a review 6 months and 18 months after their effective date.

✓ No Code change necessary. This point will be covered in Planning Commission's recommendation to the Board of County Commissioners (BOCC) and in the enabling resolution by the BOCC if adopted.



PROPOSED REVISIONS #8, #9

8. Additional setbacks	
<ul style="list-style-type: none"> • A 1500 ft. setback from occupied structures was presented at the October 17th public hearing. • In reaction to these maps, Planning Commission made a motion recommending approval of a 1000 ft. setback from occupied structures. The intent is to allow for a 50/50 split of areas that are eligible for review under the Expedited and Standard processes. 	<ul style="list-style-type: none"> ✓ See attached maps (Attachments C1 – C4) that show the 1000 ft. setback from occupied structures.
9. Utilization of existing well pads	
<ul style="list-style-type: none"> • Planning Commission directed Staff to look into the utilization of existing well pads as an additional eligibility criterion for the Expedited review. This will encourage shared use of infrastructure. • Need to narrowly define what well pad means. 	<ul style="list-style-type: none"> ✓ See attached maps (Attachments C5 – C8) which will be presented and discussed at the October 30th public meeting. ✓ “Well pad” is defined in Section 12-1400 Definitions. ✓ One benefit here is that an existing well pad would be required to come into compliance with the new regulations to the extent practical if it is utilized.

➤ Maps will be discussed in detail following presentation of the rest of this table.



PROPOSED REVISIONS #11

Planning Commission Motion	Staff Response / Proposed Revision
11. Moratorium extension	
Planning Commission, by a vote of 4-1, recommended that the Board of County Commissioners (BOCC) extend the moratorium an additional 3-6 months.	✓ This was a separate motion that will be passed onto the BOCC for their consideration at their first public hearing regarding the Draft Regulations on November 13.



PROPOSED REVISIONS #12

12. Industry edits

Staff has incorporated additional edits in response to comments received by Industry to date.

- ✓ Edits made at Section 12-602(A)(1) and Section 12-703(B)(1) under general duty to minimize VOC emissions to address industry concerns about impracticality of eliminating all emissions.
- ✓ Edits made at Section 12-602(A)(2)(f) and Section 12-703(B)(2)(f) to incorporate option to visible alarm.
- ✓ Edit made at Section 12-602(A)(6) to address industry concerns about impracticality of capturing all produced gas.
- ✓ Edit made at Section 12-602(A)(7) to address industry concern that pneumatic controllers are not available for all applications.



PROPOSED REVISIONS #13

13. Other edits

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| <ul style="list-style-type: none">• The provision addressing agricultural land mitigation that was added to the Expedited review needed to be better suited for the expedited process• Staff made additional edits per the request of the Boulder County Transportation Department.• Other staff recommended edits | <ul style="list-style-type: none">✓ Edits made at Section 12-602(E) to flesh out agricultural land mitigation criteria for Expedited DPR.✓ Edits made to Sections 12-800(H) and (O) concerning dust mitigation in the general conditions of approval.✓ Edits made to Section 12-701(J) to include details for prevention of “illicit or inadvertent discharges” in the Water Quality Plan required for Standard review.✓ Edits made to Section 12-601(D)(1) and Section 12-900(B) to clarify that if an operational conflict hearing is requested, the 45 day review period for expedited DPR may be extended.✓ Edits made to 12-1000 to refine “Other Waivers” language.✓ Edits made to 12-1200(A) to refine financial guarantee language by clarifying the cost estimate standard and providing Director discretion to waive financial guarantee under certain circumstances.✓ Edits made to 12-1200(E) to clarify that Board of County Commissioner’s determination on a substantial modification appeal is not a final decision subject to judicial review.✓ Edits made to 12-1300 to refine enforcement options to the County. |
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ACTION REQUESTED FROM PLANNING COMMISSION

Planning Commission has now met Sept 24, Oct 1, and Oct 17 to review and hear from the public regarding the Draft Regulations.

Understanding that the Planning Commission has passed on a recommendation to the BOCC to extend the moratorium for another 3-6 months, Staff requests that the Planning Commission take final action on the Draft Regulations tonight and provide their recommendation to the Board of County Commissioners.





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