

**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 Planning Commission  
October 27, 2016  
4:00 – 6:00 p.m.

# Today's Agenda - Oct. 27

**I. County staff presentation on REVISED Draft Regulations**

**II. Planning Commission discussion / Final action**

- Staff requests that Planning Commission take final action, if they are ready today
- If Planning Commission chooses to consider the docket further, they may table to November 1 at 2:00 p.m.

# Schedule for Public Review

## Board of County Commissioners

**Tuesday, Nov. 15, 12 p.m.** Board of County Commissioners public hearing – public comment to be taken. (Note: Online speaker sign-ups will begin Nov. 1. Limit 3 min. per speaker)

**Thursday, Nov. 17 11 a.m.** Board of County Commissioners public **meeting** – no further testimony will be taken.

# Oil & Gas Development Website

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

Two links under the Planning Commission hearing documents–

- 1) Public comments received Sept. 27 – Oct. 12
- 2) Public comments received Oct. 13 to present

Comments on the proposed oil and gas development regulations may be emailed to [oilgascomment@bouldercounty.org](mailto:oilgascomment@bouldercounty.org)

# October 12 Planning Commission

- Planning Commission held a public hearing on October 12, 2016
  - Staff presented Draft Regulations
  - Public testimony was taken
  - Planning Commission discussion and direction to staff
- No further public testimony will be taken today

# Revisions to Draft Regulations

## 1) 2<sup>nd</sup> Neighborhood Meeting

- ✓ Edit made to Section 12-500.C (p. A-8)
- ✓ Possible edit can be made to Section 12-400 (special review process) if desired

## 2) Substantial Modification

- ✓ Edit made to Section 12-300.B (p. A-1) that a substantial modification requires Art. 12 special review
- ✓ Clarification to Section 12-900.D (p. A-25) Amendments and Modifications referencing Art. 4-603, plus additional guidance/criteria

# Revisions to Draft Regulations

## 2) Substantial Modification (cont.)

- ✓ Additional guidance/criteria includes – substantial modification if:
  - Adding one or more new wells on an existing pad
  - Altering the nature, character, or extent of the land use impacts of the special review approval
  - Resulting in an increase in hydrocarbon emissions
  - Refracking of an existing well
- Not a substantial modification if results in a net decrease in hydrocarbon emissions or other net mitigation of existing or potential impacts

# Revisions to Draft Regulations

## 3) Notice to Water Well Owners

- ✓ Edit made to Section 12-400.H.1 and H.2.d (p. A-4 and A-5)

## 4) Baseline Testing of Soil, Water Wells, and Air

- ✓ **Soil** – Added #11 Testing of soil samples to Section 12-701.C Potential Site Specific Measures (p. A-24)
- **Water well** – Staff will further review COGCC regulations and changes
- **Air** – Uncertain how a baseline air testing requirement would work on a site-specific basis; getting more information



# Revisions to Draft Regulations

## 5) Water and Waste Disposal / Injection Wells

- ✓ Edit made to require a Waste Disposal Plan identifying projected waste from the site and plans for disposal (Section 12-500, p. A-12)
- Waste disposal is an area where COGCC has a number of specific requirements. Staff will continue to review the regulations to determine if areas of specific County concern are necessary, in addition to the broader area covered by the State.
- ✓ Prohibit injection wells in all zoning districts (Section 4-500.1.D.1 , p. A-33)

# Revisions to Draft Regulations

## 6) COGA Comments

- ✓ Edits incorporated where they help clarify the intended scope of the County's regulations
- ✓ Edits made to 12-1400.D "Oil and Gas Operations" definition (p. A-29), but did not replace this definition with "Oil and Gas Location"

COGCC definition (100 Series of Rules and Regulations):

OIL AND GAS LOCATION shall mean a definable area where an operator has disturbed or intends to disturb the land surface in order to locate an oil and gas facility.

- Waitlist / timeframes

# Revisions to Draft Regulations

## 7) Fracking Fluid Chemicals

- ✓ COGCC now requires that operators provide information regarding fracking fluids (within 60 days following the conclusion of a hydraulic fracturing treatment, and in no case later than 120 days after the commencement of such hydraulic fracturing treatment) | <https://fracfocusdata.org/DisclosureSearch/Search.aspx>
- ✓ Safety Data Sheets (SDS) of all products used, stored or transported must be kept onsite and made available to emergency responders per the Emergency Preparedness Plan

# Revisions to Draft Regulations

8) **Emergency Preparedness Plan**

9) **Training with Local Agencies**

✓ Edits made to Section 12-500.M (p. A-10)

- Deleted confidentiality clause related to pipelines and isolation valves
- Two evacuation routes
- Address other hazards such as earthquakes, floods, or wildfire
- “Immediately” = in no case more than 24 hours
- Regular training exercises if requested by the emergency response agency

# Revisions to Draft Regulations

## 10) Water Quality Analytes Table

- ✓ Strike Oxygen (O<sub>2</sub>) from Table 1 (p. A-22)

## 11) Alternative Location Analysis

- ✓ Edit made to Section 12-500.J.2 asking for “reasonable consideration” of the alternative sites

# Revisions to Draft Regulations

## 12) Financial Solvency

## 13) Bonds and Performance Guarantees

- ✓ Minor edit to Section 12-700.Q (p. A-17) to expand letter of credit to include other financial guarantees
- ✓ Staff talked to Industry representatives and COGCC, researched the COGCC Rules (700 Series – provided in packet), and looked at examples of what individual companies post for bonds.
- Trying to determine what role, if any, is available to the County.

## Information from the COGCC:

Environmental clean-up is addressed by

- (1) requiring operators to pay for clean-up at the first instance;**
- (2) requiring bonds and insurance coverage for clean-up and damage not paid by the operator;**
- (3) a state environmental reserve cash fund and penalty revenue.**

In fiscal year 2015-2016, penalty revenue totaled approximately \$1.5 million. **Penalty revenue, while not specifically appropriated by the General Assembly, is used along with other cash fund monies (about \$750,000 this year) to support the environmental-related expenditures** mentioned above such as plugging and reclaiming orphaned wells, environmental studies, and emergency response. Since fiscal year 2007-2008 through the end of FY 2015-2016, the Commission has collected approximately \$6.6 million in penalty revenue and spent \$5.5 million of it on these items.

**From:** Lepore - DNR, Matt  
**To:** [Sanchez, Kimberly](#)  
**Subject:** Financial assurance  
**Date:** Wednesday, October 26, 2016 9:59:53 AM

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**Kim:**  
See below.

The Oil and Gas Conservation and Environmental Response fund (“cash fund”) is used for general operating and personnel expenses, environmental studies, environmental assistance and complaint resolution, plugging and reclaiming orphaned wells, and emergency response to and mitigation of significant adverse environmental impacts to air, water, soil, or biological resource as a result of the conduct of oil and gas operations. The General Assembly establishes the Commission’s spending limits for those items through annual appropriations from the cash fund. As an example, for FY 2016-2017 the General Assembly appropriated \$445,000 of the cash fund for plugging and reclaiming orphaned wells, which is consistent with the allocation for the past several years. The GA appropriated \$750,000 for the emergency response line item. In past years, this amount has been \$1 million, but because it has been used very little it was reduced this FY.

Matt Lepore  
Director  
via mobile phone



# Revisions to Draft Regulations

## 14) Compliance Monitoring and Air Quality Inspection

- ✓ Draft Regulations include air quality monitoring provisions in Sections 12-700 and 12-701, including requirements for Hydrocarbon Emissions Leak Detection and Repair (LDAR) program and continuous ambient air quality monitoring
- Planning Commission can pass on a recommendation to the BOCC to develop our Voluntary Oil and Gas Inspection Program (BoCo Public Health)

# Revisions to Draft Regulations

## 15) Other Edits

- ✓ Transportation / Parks and Open Space Department comments
- ✓ School District as referral agency
- ✓ Floodplain
- ✓ Pipelines
- ✓ Noise
- ✓ Disruption payments
- ✓ Maintenance and repair
- ✓ Suit to Enjoin
- ✓ Falsification
- ✓ Water pipelines (temporary and permanent)
- ✓ Other clerical edits throughout

# Public Comments

- Written comments are posted on the County's Oil and Gas website:

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

# Draft Regulations

- **Purpose:**

To review the 2012 regulations and respond to additional information about impacts, changes in oil & gas drilling practices, the rulemakings at the State level, and the CO Supreme Court cases

- County's objective is to **protect public health, safety, welfare, and the environment to the maximum extent** permitted by law
- Reduce incompatibility and minimize potential land use conflicts between oil and gas operations and surrounding land uses

# Recommendation

- We find that proposed Land Use Code amendments meet the criteria in Art. 16-100 of the Land Use Code in that:
  1. *the existing text is in need of the amendment;*
  2. *the amendment is not contrary to the intent and purpose of this Code;*
  3. *the amendment is in accordance with the BCCP*
- We request that Planning Commission take final action on the Draft Regulations
- Staff recommends that Planning Commission **approve and recommend approval of this docket to the Board of County Commissioners**

