



ARAPAHOE COUNTY
COLORADO'S FIRST

BOARD SUMMARY REPORT

Date: August 20, 2020
To: Board of County Commissioners
Through: Bryan Weimer, Director of Public Works and Development
From: Diane Kocis, Energy Specialist
Subject: **Review of the Key Elements of the draft Oil & Gas Rules**

Request for Direction and Staff Recommendation

The purposes of this Board Summary Report (BSR) and two scheduled Study Sessions are to provide a review and update on the recently drafted and internally reviewed oil and gas rules, as well as to provide an update to the rules process schedule. This BSR applies to both the August 31st and September 1st study sessions. Topics not discussed during the August 31st study session will be covered in the September 1st study session.

The draft Oil & Gas regulations that will be reviewed were developed based on a review of regulations drafted and adopted in other Front Range jurisdictions, feedback received from the BOCC at a series of study sessions, and input from a number of agencies including the Office of Emergency Management, Bennett-Watkins Fire Recue, Colorado Parks and Wildlife, Colorado Oil and Gas Conservation Commission and the County's Engineering Services Division.

Key elements to be reviewed in these two study sessions include:

- Draft Health and Safety Rules, developed with input from Office of Emergency Management (OEM), Bennett-Watkins Fire Rescue (BWFR) and Colorado Oil and Gas Conservation Commission (COGCC).
- Draft Quality of Life Rules, with input received from Engineering Services Division and Colorado Parks and Wildlife (CPW).
- Draft Process Improvement Rules with input from the County Attorney's Office.
- Draft Operational Requirements, based partly on regulations in other jurisdictions.

Staff recommends that the BOCC provide direction to proceed with stakeholder review (including citizen review) of the draft O&G regulations, as proposed, or to provide feedback on elements to revise prior to initiating outreach efforts.

If direction to move forward is received, next steps will be to get early feedback from stakeholders on the proposed regulations and to evaluate that feedback for changes that may be appropriate to integrate into a final draft for public hearings.

Links to Align Arapahoe

This matter links to the Align Arapahoe goal for Quality of Life for Arapahoe County citizens who will be impacted by neighboring oil and gas facilities and to the goal of Fiscal Responsibility for a balanced approach that will allow the industry to operate safely and successfully.

Background

Under the new local government authority for the siting of oil and gas operations, granted under SB19-181, staff is working on a draft of proposed amendments to the Land Development Code to govern the siting and operation of oil and gas facilities within unincorporated Arapahoe County. The proposed amendments will preserve the administrative USR process approval process in the existing Code. The new regulations are intended to replace and expand the provisions of the Memorandum of Understanding (MOU) that is required to be signed by each operator and are intended to function without the need for an MOU. The draft oil and gas regulations consider the interests of operators, developers, mineral rights holders and citizens, while working to achieve a balanced approach, as directed by the Board of County Commissioners.

The direction received to date from the BOCC is summarized in the attached Regulatory Summary Matrix; that direction will be reviewed.

Arapahoe County Public Works and Development will continue to engage in stakeholder outreach, beginning in September, for stakeholder input on the draft rules. The stakeholder groups will include concerned citizens, mineral rights holders, industry, developers, state agencies and other County departments, including the Office of Emergency Management (OEM), the Sheriff's Office, the Engineering Services Division, the County Attorney's Office and Open Spaces.

The working draft of the proposed amendments to the Land Development Code is attached to this BSR along with the summary tables also attached.

Discussion

Front Range Jurisdictions: Staff has continued to review and evaluate regulations drafted and adopted in other Front Range jurisdictions. Many of those rules from other jurisdictions, as well as conversations with other local governments' staff and COGCC staff, have provided a basis for our Health and Safety, Quality of Life and Process Improvement rules. Please refer to the attached tables for a list of the rules topics.

Evaluation Criteria: As presented at prior study sessions, staff used our established evaluation criteria for our draft rules:

- Impact on the Public
- Alignment with State Rules
- Best Management Practices
- Industry Impact
- Impact to County Resources

Tiered Approach for Small and Large Well Sites: Staff also continued a tiered process where pads proposed on land remote from residential development and pads with fewer than 4 wells proposed would not be subject to all of the requirements of a multi-well pad near residential development.

Summary Table for Draft Regulations: The attached tables summarize the proposed regulations drafted for Health and Safety, Quality of Life and Process Improvements and provide a short recap of the reasons behind the proposed rules.

Energy Facilities Regulations/Consistency: Staff would also like to note that the consistency with the administrative solar application process was not achievable in the draft Energy rules due to numerous details that are unique to administrative oil and gas applications. The administrative solar rules will be updated immediately following BOCC approval of the oil and gas rules.

Schedule and Next Steps

Staff drafted new regulations for Health and Safety, Quality of Life, and Process Improvements in May, June and July. The newly drafted regulations were reviewed by our emergency responders, our Engineering Services Division, CPW and the County Attorney's Office in June, July and early August. Input was also received from COGCC on a portion of the Health and Safety draft rules. After internal review, the draft rules were revised in August.

Stakeholder input from industry, citizens, mineral rights holders, other local governments, State agencies such as COGCC/CPW/CDPHE (Colorado Department of Public Health and Environment)/DWR (Division of Water Resources)/SLB (State Land Board), utilities, pipeline operators, developers and home builders, and economic development agencies will be gathered in September via email and a new oil & gas rules survey, as we do not have the opportunity to meet with the stakeholders in person due to the COVID-19 social distancing guidelines. Following the stakeholder input, staff will conduct a study session with the Planning Commission.

Once the outreach process is complete and draft rules are finalized, they will be presented at a formal public hearing before the Planning Commission in October. Operators and the public will have an additional opportunity to comment at the Planning Commission hearing. The Planning Commission will provide a recommendation to the BOCC for approval as proposed, approval with changes, or denial of the updated regulations.

Finally, in December, the rules will be presented at a public hearing before the BoCC for a final decision on whether to adopt the regulations. Citizens and other stakeholders will have an opportunity to provide additional comment at the time of the hearing.

Alternatives:

The attached tables summarize the elements included in the draft regulations The BOCC may:

1. Provide direction to staff to move forward with stakeholder and public outreach and review of the draft regulations, as written; or
2. Provide direction to staff to revise specific sections of the draft regulations in accordance with feedback received during today's study session and then proceed to stakeholder and public outreach; or
3. Determine that the draft regulations should not be taken out to stakeholder and public review and provide new direction on an approach to pursue.

In addition:

4. Staff requests that the BOCC indicate whether staff should schedule a drop-in or study session to review stakeholder and public feedback with the Board prior to preparing a final draft to accompany noticing for public hearings.

Fiscal Impact

Depending on the specific changes adopted, it is likely some level of financial impact will occur for the County due to additional plan review or variance requests that would be required from approved or pending land development for new oil and gas facility applications. Ability to enforce any new regulations and impacts to staffing for ongoing implementation and enforcement of regulations have been taken into consideration by staff in making recommendations to the Board of County Commissioners; however, some modifications to fees may need to be considered in the future; none related to plan review are proposed at this time.

Concurrence

PWD Staff is in support of continuing this process to draft and adopt oil and gas rules to replace our existing MOU administrative process, with continued stakeholder outreach, toward the goal of presenting the proposed rules to both the Planning Commission and the Board by the end of 2020. The County Attorney's Office has reviewed this BSR.

Six Attachments

- Regulatory Summary Matrix (direction received in prior study sessions)
- Summary Table of Draft Health and Safety Rules
- Summary Table of Draft Quality of Life Rules
- Summary Table of Process Improvement Rules
- Summary Table of Operational Rules

Working draft of the Oil & Gas regulations
Oil & Gas Rules Timeline

Reviewed by

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