



Oil & Gas LDC Updates

City Council Study Session February 2020

Presentation Outline

- Overview of issues raised during the November 4 meeting
- Review of stakeholder engagement that has occurred since November
- Any concepts that have been derived through the stakeholder process
- Overview of state rulemaking process
- Next steps moving forward
- Questions for Council





Issues Raised – Nov 4

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Issues Raised – November 4 Hearing

- Lapse and forfeiture
 - 3 year limit on Oil and Gas Permit term, and 3 year right to drill window
 - Three year window to drill all wells approved within a permit. If all wells aren't drilled within three years, applicant must re-apply for oil and gas permit
- Permit transferability
 - Oil and Gas permits do not “run with the land” and any changes in tenancy, ownership, or management require the issuance of a new permit.
- Air Quality Monitoring
 - Baseline sampling of all well sites
 - Sampling during drilling and completions phase
 - Continuous monitoring for the life of the well
 - Real time data reporting requirement
 - All costs borne by applicant
 - Applicant must select from approved vendor list (BMP's)

Issues Raised – November 4 Hearing

- Setback measurements / reverse setback
 - Ensure consistency of setback measurement method throughout the code
 - Setback = new well site versus existing residential units
 - Reverse setback = new residential construction versus existing well sites
 - Proposed reverse setback equivalent to the regular setback during drilling and completions phase – 80% of the air quality and noise impacts are felt during this time
 - Concerns from homebuilders on the reverse setback of up to 500' from production sites
- Gathering line regulations
 - Requirement for operator to remove gathering lines during reclamation
 - Concerns over local authority to regulate gathering lines
- Chemical disclosure
 - Concerns from the industry about public disclosure of proprietary information – “trade secrets”
 - Listing chemicals used in the process, but not specific details about the percentage of each chemical used



Stakeholder Feedback

Stakeholder Meetings

- Meetings Conducted:
 - January 9, 2020: COGA, API & Oil and Gas Operators
 - January 15, 2020: COGCC
 - January 15, 2020: North Range Concerned Citizens
 - January 16, 2020: Environmental Regulatory Groups
 - TCHD, CDPHE, Denver Environmental Quality Division (Air Quality)
 - January 21, 2020: Conservation Colorado
 - January 23, 2020: Oil and Gas Focus Group (1 of 2)
 - January 27, 2020: Developers and Homebuilders
- Additional meetings planned
 - LOGIC (League of Oil and Gas Impacted Coloradans)
 - Oil and Gas Focus Group (2 of 2)
 - To be held after draft ordinance is published

CDPHE Comments

- Setbacks: add COGCC definition of “Designated Outdoor Activity Area” along with other items defined in “outdoor venues”
- Add provision requiring that if a Public Water System has completed a source water protection plan, that the operator must discuss potential impacts to the water provider and implement appropriate BMP’s
- Add setbacks from domestic, commercial, and irrigation wells



CDPHE Comments (Cont'd)

- Air Quality
 - Expand on “potentially harmful emissions”, including methane and other hydrocarbons, Benzene, Toluene, ethylbenzene, and xylene (BTEX), and oxides of nitrogen
 - Better define pollutants in air quality monitoring requirements, clearly define objectives
 - Desire for continuous sampling
 - Define similar items for ambient air monitoring provision
- Pipelines: “ensure adequate pipeline takeaway capacity”, rather than “construct pipeline infrastructure”



TCHD Comments

- Recommendation for 2,000' setback based on multiple listed studies
- Temporary living quarters – recommendation for vault system for wastewater collection
- Recommendation for reverse setbacks to generally be equivalent to regular setbacks
- Recommendation for city to designate primary traffic route for construction traffic
- Delay flowback and well liquids unloading on high ozone days
- Specification on noise measurements
- Recommendation for additional noise mitigation if there is a founded noise complaint from any facility



Progress on Outstanding items



Lapse and Forfeiture

- Original language stated a 3 year limit on Oil and Gas Permit term, and 3 year right to drill window.
- Necessary to regulate timeframe of drilling in some capacity – operators that do not drill wells quickly can impede future residential and commercial development, and cause safety concerns
 - Under draft ordinance, regular minimum setback of 1,000’ would apply until drilling and completions phase is completed.
- Potential solution – clarifying language on co-terminus with state 2A permits. Spudded, rather than drilled and completed
 - What happens if no development is adjacent in three years? Potential to include a one-time, one year extension, and additional extensions approved by council.



Example



Figure 1. *This location in northern Brighton was approved on 4/25/2017. Only 6 of 24 approved wells were drilled in 2017. Residential development south of the location has been stalled. Development east of the location is occurring despite the fact that months of drilling and fracking could recommence at any time.*

Transfer (Assignment of Permit)

- Oil and Gas permits do not “run with the land” and any changes in tenancy, ownership, or management require the issuance of a new permit.
 - Current requirement for Conditional Use Permits in the City
- Industry concerns over transfer of assets
- Potential solution is to establish a review and approval process at the time of assignment:
 - Purpose is to demonstrate new operator is fully able and willing to comply with the BMP’s, and operating standards approved in the previous permit
 - City should have some review and authority, in order to prevent enforcement concerns down the road



Air Monitoring

- Previous draft required baseline sampling, continuous monitoring for the lifetime of the well, real time data reporting
 - Was proposed as a stop-gap measure until AQCC conducts rulemakings later this year
 - Statement of intent and goal for air quality monitoring program. What are we trying to monitor?
 - Define threshold levels, at what distance should monitoring occur?
 - Industry concerns - monitoring for the lifetime of the well may be too onerous
- Progress still being made on this topic
 - Methane, Volatile Organic Compounds (VOC's), Hazardous Air Pollutants (HAP's), Oxides of Nitrogen (No_x), Particulate Matter (PM), Fine Particulate Matter (PM_{2.5})
 - Do we want exact continuous, publically available data readings on all of these, versus monitoring sudden spikes to be alerted of a public health and safety concern?
 - If some sites are utilizing pipelines & electric equipment, does it make sense to continuously monitor for emissions that we aren't anticipating to expect in high concentrations?
 - Differentiation between regional ozone formation and site specific impacts
 - Continuous monitoring for PM_{2.5} low cost and relatively reliable, versus continuous monitoring for Methane
 - Engaging in AQCC State Hydrocarbon Emissions Reduction rulemaking Stakeholder Group (SHER) to get additional feedback

Setbacks

- Concerns from homebuilders on the reverse setback of up to 500' from production sites
 - Significant setbacks limit homebuilder ability to develop homes, and plan development around uncertainty of drilling timeframes
 - Desire to ensure values are consistent with recently approved SUA's
- Potential Resolutions
 - Minor text and definition amendments that can be made to ensure clarity as it pertains to setback measurements.
 - Specifically as to how setbacks are measured (edge of the production site to a parcel boundary)
 - Ensuring clarification that the reverse setback reduces from 1,000' to some value between 300' and 500' after drilling and completions phase.
 - Additional platting considerations
 - Building permit restriction on platted lots within setback, or plat as a tract?
 - Setbacks / easement denotation for pipelines



Other issues

- Gathering line regulations
 - Industry concerns over statutory authority to regulate gathering lines
 - Not clearly specified as to whether pre-emption exists. There are certain circumstances where removal may be beneficial.
- Chemical disclosure
 - Concerns from the industry about public disclosure of proprietary information – “trade secrets”
 - Listing chemicals used in the process, but not specific details about the percentage of each chemical used
 - There was miscommunication in the reading, and current draft does not specify disclosure of proprietary chemical percentage levels.





State Rulemaking Progress

Rulemakings

- Wellbore Integrity
 - Occurring on February 26th, 2020
 - Current draft - surface casing depth up to 3,000' under ground
- Mission Change, Alternative Location Analysis, Cumulative Impacts
 - Rulemaking to be conducted in May
 - Draft 300 series and 500 series rules included in study session packet
 - City has been working with local government coalition on providing feedback to the COGCC on these rulemakings
- Staff continues to closely monitoring these rulemakings, and how they align with current draft regulations



Comparison to Draft Regulations

Topic	COGCC Draft	Commerce City Draft
Approval Criteria	<ul style="list-style-type: none"> Approval criteria, based on director's assessment on health, safety, welfare, environment, or wildlife impacts. Potential path to permit denial 	<ul style="list-style-type: none"> The proposed operations and facility will not result in substantial or undue adverse impacts or effects (during any phase of operation or during any potential operational, environmental, or meteorological condition) on public health, safety, welfare, or the environment; adjacent property; occupied structures within 2,500' of the proposed facility; the character of the neighborhood; and traffic conditions;
Alternative Location Analysis	<ul style="list-style-type: none"> Applies to facilities with 2,000' of 50 or more building units Director may request operator analyze additional locations 	<ul style="list-style-type: none"> Applies to all proposed facilities in the city Operator required to propose three facilities, least impactful facility is eligible to apply for permit More stringent application materials
Air Quality	<ul style="list-style-type: none"> Will quantify projected estimated emissions of a number of pollutants in tons per year (tpy) 	<ul style="list-style-type: none"> Not required
Notice	<ul style="list-style-type: none"> All owners of minerals to be developed, surface owners, residences, police, fire departments, emergency service agencies, and first responder agencies within 2,000 feet of a facility 	<p>All properties within 2,500' of a facility</p>
Surface Casing Depth	<ul style="list-style-type: none"> 3,000' 	<ul style="list-style-type: none"> To the bottom of the Fox Sands aquifer (generally 500' – 1,000')



Next Steps



Potential Timeline Moving Forward

- Mid - February to Late February – continue with additional stakeholders, continue to refine draft
- Late February / Early March – publish draft regulations for a minimum of 21 days prior to public hearing
 - Additional study session with Council to review final draft if necessary
- Further refinement between close of comment period and Planning Commission hearing
- Tuesday, April 7: Planning Commission hearing
- Monday, May 4: City Council 1st reading
- Monday, June 1: Ordinance adopted on 2nd reading



Questions For Council

A large, stylized tree graphic is positioned on the right side of the slide. It has a thick, vertical trunk and several large, curved, leaf-like shapes extending from it, rendered in a light gray color against the dark background.

Questions

- Any modifications to the previous feedback given to staff on 9/9 and 10/14?
- Any feedback on the outstanding items defined?
- Any feedback on the proposed timeline?
 - Is there a desire to hold an additional study session to review the draft ordinance in detail?

