

COLORADO OIL AND GAS CONSERVATION COMMISSION

MAJOR PROVISIONS IN DRAFT RULES FOR OIL AND GAS DEVELOPMENT IN COLORADO

TOPIC	CURRENT RULES	INITIAL PROPOSAL	DRAFT RULES
Surface impacts of new oil and gas locations	Application for Permit-to-Drill, Form 2, and Drill-Site/Access Road Reclamation Form, Form 2A.	Would have required a Form 34 permit with substantial new information.	The draft rule returns to the current permitting structure. Though the Form 2A will require certain additional information, this additional information would be greatly reduced from the initial proposal. Except in the Piceance Basin or where a variance is sought, the Form 2A would be an informational submittal only, not requiring Director approval. <i>Draft Rule 303(d)</i> .
Processing time for drilling permit applications	Not addressed in the current rules. Average processing time is currently 65 days.	Not addressed in the initial proposal, except that permit consideration could be expedited with a Comprehensive Development Plan.	The Director's decision will typically occur in 50 days under the draft rules. Where consultation occurs, permit decisions will be made in 60 days. Where a Comprehensive Drilling Plan exists, permit decisions will be made within 30 days. If the Director has not issued a decision within 75 days, the applicant may request an expedited hearing before the Commission. In the event of an appeal to the Commission, these timelines will be extended. <i>Draft Rule 303(e)</i> .
Notice and comment on drilling permit applications	Operators must notify surface owners and the local government before drilling begins.	In addition to current rules, would have required posting Form 34 applications on the OGCC website and provided a 30-day public comment period.	Applications will be posted on the OGCC website and the public will typically have 30 days to comment (20 days where a Comprehensive Drilling Plan exists). Operators must send applications to the surface owner and adjacent property owners. <i>Draft Rule 305(b)(1)</i> .
Consultation with CDPHE and CDOW on drilling permit applications	Not addressed in the current rules.	Would have required consultation where an operator sought a variance or where the location was in a designated area. Would have provided a 60-day consultation and a 15-day period for informal dispute resolution.	The draft rule requires all consultation to occur within 40-days. DOW will consult where an operator or surface owner seeks a variance from the wildlife rules. DPHE will consult where the operator seeks a variance from environmental rules, or where requested by the local government. <i>Draft Rule 306(c) & (d)</i> .
Who can request a hearing on drilling permit approvals	Only the local government may request a hearing.	Would have allowed the following parties to request a hearing: the operator, the surface owner, the local government, DPHE and/or DOW (where consultation occurred), and adjacent landowners.	The draft rule allows the operator, the surface owner, the local government, the DPHE (raising environmental issues) and DOW (raising wildlife issues) to request a hearing. As under the current rules, adjacent landowners may not request a hearing. <i>Draft Rule 503(b)</i> .
Regional planning	Not addressed in the current rules.	Called for operator-initiated Comprehensive Drilling Plans (CDPs) to identify cumulative impacts and develop presumptive mitigation measures, possibly decreasing permit approval times. Would have authorized OGCC to adopt Geographic Area Plans (GAPs) by rule, addressing activities in gas fields or geologic basins.	The draft rule substantially follows the pre-draft proposal regarding CDPs and GAPs. However, decisions on permit applications covered by a CDP would be made in 30 days. Where the Director does not issue such a decision in 30 days, the operator may request an expedited hearing before the Commission. <i>Draft Rules 216 and 513</i> .
Cooperation with local governments	Not addressed in the current rules.	Not addressed in the initial proposal.	This issue arose in the stakeholder groups. The draft rule authorizes the Commission to enter into a Memorandum of Agreement (MOA) with a local government to clarify, coordinate, and harmonize the relationship between the OGCC rules and local regulations. The MOA will be approved by the Commission after a hearing and must be consistent with the Oil and Gas Conservation Act. <i>Draft Rule 521</i> .
Stormwater management	The current rules require operators to protect soils from wind and water erosion.	Would have required operators to establish Facility Spill and Runoff Control Programs, describing potential pollutant sources and identifying operating practices to reduce erosion.	The draft rule requires operators to identify and implement best management practices to control stormwater erosion and provide for periodic self-inspection of stormwater measures. <i>Draft Rule 1002(f)</i> .

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Protection of drinking water supply areas	Not addressed in the current rules.	Not addressed in the initial proposal.	This issue came up in public meetings and stakeholder groups. The draft rule prohibits construction of oil and gas activities within 500 feet of sources of drinking water for a distance of 5 miles upstream of a public water supply intake. It also requires performance standards for activities within ½ mile of such sources. <i>Draft Rule 317B.</i>
Chemical inventory	Not addressed in the current rules.	Would have required operators to maintain an inventory of the types and quantities of all chemicals used or stored, including all substances released into the environment.	The draft rule substantially follows the initial proposal, and will require operators to maintain the inventory for the life of the facility, update it regularly, and provide it promptly upon request by the OGCC. Information in the inventory will be kept confidential to the extent permitted by law. <i>Draft Rule 205.</i>
Management of odors and fugitive dust	The current rules do not specifically address odors, and they require operators to maintain sites "so as to reasonably control dust."	Would have required odor controls on equipment and limited pits within ½ mile of a residence or school. Would have required operators to control dust within ¼ mile of occupied buildings with wind breaks, road surfacing, etc.	The draft rule substantially follows the initial proposal but limits the odor control requirements to the Piceance and San Juan Basins. It also requires operators to use "green completion" practices where practicable to reduce odors and to employ practices for fugitive dust control. <i>Draft Rule 805.</i>
Lining of waste pits	The current rules require certain pits to be lined, but not all.	Would have required all pits to be lined unless the operator demonstrates that the quality of the water in the pit is equivalent to the groundwater or that seepage will not reach groundwater. Would have doubled the thickness of soil liners and increased the thickness for synthetic lines.	The draft rule substantially follows the initial proposal, though it requires additional pits to be lined. It will prohibit soil liners for new pits and double the required thickness for synthetic liners. It will also require double lining of centralized exploration and production waste management facilities. <i>Draft Rule 904.</i>
Spill reporting	The current rules require operators to report spills to the Director.	Would have required operators to consult with affected surface owners prior to commencing remediation operations. Would have required operators to construct secondary containment around tanks.	The draft rule requires operators to alert DPHE of all spills or releases that threaten a surface water and to report any spill that threatens a public drinking water supply immediately upon discovery. It also requires berms around sites sufficient to contain the largest tank plus precipitation. <i>Draft Rule 906.</i>
Provisions to protect wildlife resources	Not addressed in the current rules.	The DOW initially proposed an 11-page set of conditions that would apply to oil and gas activities to protect wildlife and a 28-page set of Best Management Practices that would be recommended for oil and gas locations to minimize impacts to wildlife.	One of the working groups focused solely on wildlife protection issues, and it reduced the 11-page set of initial restrictions down to a 4-page document. The draft rule will include timing restrictions and areas where activity would be restricted, as well as measures for transportation planning, mosquito control, disinfecting equipment, and using bear-proof containers. They will also direct operators to prepare mapping for specific wildlife species in particular areas of the State. <i>Draft 1200-Series Rules.</i>
Wildlife timing restrictions	Not addressed in the current rules.	The DOW initially proposed broad timing restrictions for various species, and it was unclear how they would relate to and stack upon one another. In some cases, these timing restrictions were as long as 8 ½ months.	The draft rule identifies 3-month drilling restrictions for critical areas of the state where development activities will be restricted, although it provides a drilling window of 9 months or more in all instances and will not apply if operators limit the density of their development in an area. Importantly, an operator or surface owner may elect to consult with the DOW in lieu of the timing limitations. <i>Draft Rule 1208.</i>
Coalbed methane wells	Not addressed in the current rules, but OGCC policy applies in the San Juan Basin.	Would have codified the existing OGCC policy that applies to the San Juan Basin.	The draft rule codifies the existing policy, providing for assessment and monitoring of plugged and abandoned wells within ¼ mile of a proposed coalbed methane well and water well sampling and coal outcrop and coal mine monitoring. <i>Draft Rule 608.</i>
Pollution Prevention Checklist	Not addressed in the current rules.	Would have required operators to file an "annual certification [of] compliance with the terms of the [Form 34] permit, including all conditions of approval and all applicable OGCC rules. . . ."	The draft rule requires operators with facilities in the Piceance Basin to fill out and maintain on site a checklist to demonstrate on-going compliance with 7 specific requirements. <i>Draft Rule 206(b).</i>

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Penalties	Various, ranging from \$250 to \$1000 for violation of rules.	Would have increased penalties for violations of most rules to the statutory maximum (\$1000).	The draft rule substantially follows the initial proposal. <i>Draft Rule 523.</i>
Bond amounts	For wells, \$5,000 per well or \$30,000 statewide if an operator has fewer than 100 wells or \$100,000 if more than 100 wells. For centralized waste facilities, a \$50,000. For gas gathering facilities, \$50,000 statewide or \$5,000 for small facilities.	Would have increased well bonds to \$10,000 for shallow wells and \$20,000 for deeper wells. Would have doubled the statewide bond amounts for wells if an operator has fewer than 100 wells, and not change statewide bond for operators of more than 100 wells. For centralized waste facilities, would have required a bond equal to the estimated cost to ensure proper reclamation, closure, and abandonment. For gas gathering facilities, would have required \$50,000 for large facilities, and \$25,000 for small facilities. For Class II Underground Injection Control wells, would have required a \$50,000 bond.	The draft rule substantially follows the initial proposal. These increased bond amounts are necessary to ensure that the OGCC can perform adequate plugging and reclamation of abandoned oil and gas sites. <i>Draft Rules 704, 706, 711.</i>
Form 35, facility inventory	Not addressed in the current rules.	Would have required operators to submit and update a facilities inventory, Form 35, with detailed information on ancillary equipment at a location.	This is not included in the draft rules. The OGCC will obtain less detailed information on expanded facilities through the Form 2A.
Gas storage facilities	Not addressed in the current rules.	Would have imposed operating, construction, monitoring, and reporting requirements for all wells used in an underground gas storage facility.	This is not included in the draft rules because such facilities are subject to regulation by the U.S. Department of Transportation or receive approval from the Federal Energy Regulatory Commission.