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# ARTICLE 9
# OIL AND GAS REGULATIONS

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# ARTICLE 9 OIL AND GAS REGULATIONS

## DIVISION 1 GENERAL PROVISIONS

**Section 9-101: Purpose.** The purpose of this Article is to provide a framework for responsible exploration and production of oil and gas resources in a manner that conserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects the public health, safety, welfare and the environment of the County.

**A. Intent to Not Duplicate Other Permit Processes or Requirements.** The County intends to avoid duplicative permit processes or requirements. The County will review permit applications concurrently with other required state or federal agency permitting processes whenever possible and practicable.

**Section 9-102: Authority.** These Oil and Gas Regulations are authorized by, *inter alia*, C.R.S. Section 30-28-101, et seq.; C.R.S. Section 30-28-201, et seq.; and C.R.S. Section 29-20-101, et seq.

**Section 9-103: Applicability.** These Regulations shall apply to all Oil and Gas Operations on public or private land in the unincorporated areas of [*County*].

**Section 9-104 Oil and Gas Permit Required.** No person shall engage in, cause, allow or conduct any Oil and Gas Operations prior to obtaining an Oil and Gas Permit unless the Operations fall within the exemptions in Section 9-105.

**Section 9-105 Oil and Gas Operations Exempted From Permit Requirements.** The following Oil and Gas Operations are exempt from the Oil and Gas Permit requirements of these Regulations:

**A. Mapping Activities.** Mapping activities that do not result in any surface disturbance.

**B. Operation and Maintenance of Legally Existing Nonconforming Oil and Gas Operations.** Operation and maintenance of well sites, wells and pipelines that are legal nonconforming Oil and Gas Operations pursuant to Section 9-106, *Nonconforming Oil and Gas Operations.* Any alteration, extension or expansion of a nonconforming Oil and Gas Operation shall comply with Section 9-106 A.

**C. Coal Mine Methane Venting Integral and Essential to Existing Coal Mining Operation.** Coal mine methane venting from a permitted coal mine, that does not produce or distribute methane off-site, and that is an integral and essential component of the existing coal mine.

**Section 9-106. Nonconforming Oil and Gas Operations.** Oil and Gas Operations that were legally established before the effective date of these Regulations that do not conform to the regulatory provisions of this Article, and ordinary repairs and maintenance relative to the Operations, shall be allowed to continue, so long as the Operations otherwise remain legal and comply with applicable permit requirements.

**A. Extension, Expansion and Alteration of Nonconforming Oil and Gas Operations.** Legal nonconforming Oil and Gas Operations shall only be extended or altered in a manner that decreases or does not expand the nonconforming use.

1. **Extension or Expansion Onto Land Outside the Permitted Area.** Any extension or expansion of a legal nonconforming oil or gas operation onto land outside the originally established area of operations shall comply with the requirements of these Oil and Gas Regulations.

**B. Relocation of Nonconforming Oil and Gas Operations.** A legal nonconforming oil or gas operation shall not be moved, in whole or in part, unless the relocation brings the Operation into compliance with the requirements of these Regulations.

**C. Abandonment of Nonconforming Oil or Gas Operation.** If any legal nonconforming oil or gas operation is abandoned for a period of one year or more, the Operation shall not be renewed until the [*Administrator/Director*] has determined that the renewed use will not pose a threat to public health, safety, welfare or the environment.

**D. Damage or Destruction.** A legal nonconforming oil or gas operation that is damaged or destroyed by an "act of God" or through any manner not willfully accomplished by or for the owner may be restored, regardless of the extent of damage or destruction. Restoration of the Operation shall be contingent upon the following:

**1.** The owner has acquired the permits required for construction and for operation of the restored Oil and Gas Operation.

**2.** The Operation shall not be restored in a manner that expands the nonconforming use.

**3.** The Operation shall be restored within one year of the date of damage or destruction. A one time extension of up to one year may be granted by the *Administrator/Director* upon findings that:

**a.** There would be a substantial hardship to the owner without the extension; and

**b.** Within the first eight months after the destruction, the owner has substantially cleaned up and removed, if unusable, the damaged Operation.

**Section 9-107 Classification of Impact Review for Oil and Gas Permit.** Unless the Operation falls within the exemptions in Section 9-105, Oil and Gas Operations shall be classified and reviewed within one of the three following classes of Oil and Gas Permits. For purposes of determining the classification of impact review, all proposed activities of the Operator within unincorporated [*County*] shall be taken into consideration.

**A. Oil and Gas Permit for No Significant Impact Oil and Gas Operation.** An application for an Oil and Gas Permit for a No Significant Impact Oil and Gas Operation shall be reviewed administratively by the [*Administrator/Director*] under the process set forth in Section 9-303. An Oil and Gas Operation shall be classified as a No Significant Impact Oil and Gas Operation if it consists of the following elements:

**1.** The Oil and Gas Operation, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County, taking into consideration the standards for Oil and Gas Operation in Section 9-201; and

**2.** The Oil and Gas Operation will consist solely of the installation or construction by one Operator of no more than five (5) wells during the same calendar year, none of which are within one mile of each other and there is no other well(s) existing or proposed within one mile of the proposed well(s); or

**3.** The Oil and Gas Operation will consist solely of the installation or construction, by one Operator, of no more than five (5) flow lines or gathering lines within one mile of each other, during the same calendar year; or

**4.** The Oil and Gas Operation will consist solely of the installation or construction, by one Operator, of storage yards and construction staging areas disturbing one acre or less, during the same calendar year; or

**5.** The Oil and Gas Operation is necessary to protect public health, safety, welfare or the environment.

**B. Oil and Gas Permit for Minor Oil and Gas Operation.** An application for an Oil and Gas Permit for a Minor Oil and Gas Operation shall be subject to the review process in Section 9-304, and requires a public hearing and decision by the [*Planning Commission or Board of County Commissioners*]. An Oil and Gas Operation shall be considered a Minor Oil and Gas Operation if it consists of the following elements:

**1.** The installation or construction by one Operator of a well within one mile of an existing or proposed well; or

**2.** The installation or construction by one Operator of six (6) to ten (10) wells during the same calendar year, none of which are within one mile of each other and there is no other well(s) existing or proposed within one mile of the proposed well(s); or

**3.** The installation or construction by one Operator of six (6) to ten (10) flow lines or gathering lines during the same calendar year, all within one mile of each other.

**C. Oil and Gas Permit for Major Oil and Gas Operation.** An Oil and Gas Operation that is not classified or reviewed as a No Significant Impact Oil and Gas Operation or a Minor Oil and Gas Operation shall require review as a Major Oil and Gas Operation. An application for an Oil and Gas Permit for a Major Oil and Gas Operation shall be subject to the review process set forth in Section 9-305. The application requires a joint public hearing by the Planning Commission and the Board of County Commissioners with a recommendation from the Planning Commission to the Board, and decision by the Board.

**Section 9-108 Oil and Gas Operation Permit Duration.**

**A. Commencement of Operation.** The Operation shall be commenced within one (1) year of the date of Permit approval under these Regulations or the Permit shall terminate and be of no force and effect.

**B. Completion of Operation.** The Operation shall be completed within one (1) year of commencing operations permitted under these Regulations. At the end of the term of the Permit, the Permit shall terminate and be of no force and effect, and any land disturbance shall be reclaimed immediately.

**1.** The term of the Oil and Gas Permit may be extended if a greater period of time is agreed to by the County in writing prior to the expiration of one year.

**Section 9-109 Transfer of Permit.** An Oil and Gas Permit may be transferred only with the written consent of the County. The County shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Oil and Gas Permit and these Regulations, and with appropriate state and federal regulations and conditions; that such requirements, terms, and conditions remain sufficient to protect the health, welfare and safety of the public and the environment; and that a guaranty of financial security can be made to the satisfaction of the Board.

## DIVISION 2 OPERATION STANDARDS AND TECHNICAL INFEASIBILITY WAIVER

**Section 9-201 Oil and Gas Operation Standards**. An Oil and Gas Operation shall comply with the following standards unless a Technical Infeasibility Waiver is granted under Section 9-202:

**A. Drainage and Erosion Control.** The Oil and Gas Operation shall not cause significant erosion or sedimentation and shall be conducted in accordance with the drainage and erosion control plan.

**B. Access Roads.** All public access roads, under the jurisdiction of [*County*], shall be constructed and maintained in compliance with the [*road and bridge standards*] as necessary to accommodate the traffic and equipment related to the Oil and Gas Operation and emergency vehicles.

**C. Public Roadway and Traffic Impacts.**

1. **Ingress and Egress to Public Roads.** Ingress and egress points to public roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

2. **Maintenance Agreement or Financial Assurance.** If the anticipated use of public roads by the Oil and Gas Operation will result in the need for increased roadway maintenance or snow removal, the County may require the following:

   **a.** The Operator shall enter into an agreement with the County whereby the operator provides for private maintenance and snow removal, or reimburses the County for such increased costs; and/or

   **b.** The Operator shall provide a bond or other financial assurance in an amount acceptable to the County to cover the costs of impacts to the roads.

**D. Wildlife and Wildlife Habitat.** The Oil and Gas Operation shall not cause significant degradation of wildlife or sensitive wildlife habitat.

**E. Livestock and Livestock Grazing.** The Oil and Gas Operation shall not cause significant impact to livestock, grazing permits, or grazing permittees. Fencing or other agreements between private grazing operations and the Oil and Gas Operator may be used to satisfy this requirement.

**F. Recreation Impacts.** The Oil and Gas Operation shall not cause significant degradation in the quality or quantity of recreational activities in the County such as hunting, hiking, skiing or related activities.

**G. Water Quality.**

1. **No Significant Degradation.** The Oil and Gas Operation shall not cause significant degradation in the quality or quantity of surface waters from the addition of non-point source pollution.

2. **Water Wells.** The Oil and Gas Operation shall not cause significant degradation in the water quality or water pressure of any public or private water wells.

**H. Waterbody Setbacks.** Activities associated with the Oil and Gas Operation shall be located a minimum of 500 feet from any waterbody unless such a setback would interfere with spacing requirements established by the Colorado Oil and Gas Conservation Commission.

**I. Cultural and Historic Resources.** The Oil and Gas Operation shall not cause significant degradation of cultural or historic resources.

**J. Wildfire Hazard.** The Oil and Gas Operation shall not cause a significant risk of wildfire hazard.

**K. Geologic Hazards.** The Oil and Gas Operation shall not cause a significant risk of geologic hazards.

**L. Emergency Response.** The Oil and Gas Operation shall have a written emergency response plan for potential emergencies that may be associated with operation of the facilities. This shall include, but not be limited to any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, and hazardous material spills. Operation-specific emergency preparedness plans are required for any Oil and Gas Operation that involves drilling or penetrating through known zones of hydrogen sulfide gas. The plan shall include a provision for the Operator to reimburse the appropriate emergency response service provider for costs incurred in connection with the emergency.

**Section 9-202 Technical Infeasibility Waiver.** One or more of the standards for Oil and Gas Operation set forth in Section 9-201 may be waived during the application process, if the Operator demonstrates to the satisfaction of the County that it is technically infeasible to comply with the standard(s). To be granted a waiver from a standard for technical infeasibility, the burden is on the Operator to demonstrate one of the following:

**A. Conflict with State or Federal Regulation.** Conduct of the Oil and Gas Operation in compliance with the County standard would result in an operational conflict with a mandatory state or federal oil and gas regulation, condition or other requirement; or

**B. No Technology Available.** There is no technology commercially available to conduct the Oil and Gas Operation in compliance with the County standard for which the waiver is being sought, and the applicant will implement the best available technology in accordance with the industry standard.

## DIVISION 3 APPLICATION AND REVIEW PROCEDURES FOR OIL AND GAS PERMITS

### Section 9-301: Application Submittal Requirements for Oil and Gas Permits.

**A. Application to Director.** An applicant seeking an Oil and Gas Permit to conduct an Oil and Gas Operation shall submit an application to the [*Administrator/Director*] containing the following information.

1. **Applicant Information.** The name, address, telephone and fax numbers, and e-mail address for the applicant. If the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant, and the name, address, telephone and fax numbers, and e-mail address for the agent.

2. **Surface Ownership.** Documentation of surface ownership, evidence of surface owner notification, and copies of any surface ownership agreements and leases affecting site on which the Operation is proposed to occur. Name, address, telephone and fax numbers, and e-mail address of the owner of the property.

3. **Mineral Owner.** Documentation of mineral ownership, and name, address, telephone and fax numbers, and e-mail address of the owner of the mineral rights.

4. **Location of Operation.** The legal description (referencing lot and block or tract numbers, homesteads, or metes and bounds), property address and common description of the site on which the Operation is proposed to occur. A copy of the recorded deed or lease to the site shall be included.

5. **Identification of Previously Approved Uses.** List all permits which have been previously approved for the site on which the Operation is proposed to occur.

6. **Characteristics and Current Condition of the Site.** Identification of physical characteristics and current conditions of the site where the Operation is proposed to occur including streams, irrigation ditches, ponds, soils, roads, vegetation, geologic hazards,

identification of trees or other vegetation that have been removed and changes caused either by weather-related or human activity within the past five years, and any other characteristics requested by the [*Administrator/Director*] to determine potential impacts.

**7. List of Adjacent Landowners and Land Use.** A list of all landowners and land uses that are adjacent to the boundaries of the site on which the Operation is proposed to occur, including all properties that are separated from the site by a roadway or would be adjacent to the site except for the existence of the roadway.

**8. Vicinity Map.** A vicinity map that includes the following information:

**a. Operation Location.** Location of the Operation on a United States Geological Survey (USGS) quadrangle map, or on a recorded plat if the proposed Operation is within an approved subdivision. The boundaries of the site on which the Operation is proposed to occur shall be clearly identified.

**b. Topographic Features In the Area of Operation.** Streams, lakes, ponds, wetlands, contour lines, elevations, slopes and floodplains within one (1) mile of the site.

**c. Easements.** Easements recorded or historically used that provide access to or across, or other use of, the site.

**d. Boundaries of Districts, Municipalities or Subdivisions.** Location of boundaries of special districts, municipalities or subdivisions within one (1) mile of the site.

**e. Proximity of Other Wells and Other Oil and Gas Operations.** Location of other wells and other Oil and Gas Operations within one (1) mile of the site.

**9. Site Plan Map.** The [*Administrator/Director*] may require, or the applicant may choose to submit, a more detailed version of all or part of the site plan. The site plan shall include the following elements.

**a. Easements and Rights-of-Way.**

**(1)** Utility easements and rights-of-way located on the site.

**(2)** Easements recorded or historically used that provide access to or across, or other use of, the site.

**b.** **Roads.** All public and private roads and rights-of-way that traverse and/or provide access to the site, and the public or private entity having jurisdiction over each road and rights-of-way.

**c.** **Improvements.** All existing improvements on the site, and copies of the relevant permits.

**d.** **Proposed Facilities**. Proposed facilities such as structures, pipelines, tanks, wells, pits, flow lines, impoundment facilities, staging and storage areas and equipment.

**e.** **Site Features**. Site features such as floodplains, waterbodies, drainage patterns, aquatic habitat, vegetative cover, wildlife migration routes and significant wildlife habitat.

**f.** **Topography**. Existing and proposed topography at five-foot intervals or some other interval established by the [*Administrator/Director*] as necessary to portray the direction and slope of the area affected by the Operation.

**g.** **Lease Boundary.** All boundaries of the lease(s) upon which the Operation will take place.

**10.** **Local, State and Federal Applications and Permits.** Copies of all local, state and federal applications authorizing or required for the Oil and Gas Operation and copies of the permits, when issued.

**11.** **Operation Plan.** A plan including the method and schedule for drilling, completion, transporting, production and post-operation including reclamation and clean-up.

**12.** **Weed Management Plan.** A plan for management and prevention of noxious weeds on the site.

13. **Access and Transportation Routes.** A map that identifies the access route to and within the parcel, and a narrative estimating the number and types of vehicles anticipated per day, including weights, that will travel over the route.

14. **Identification of Water Structures.** Identification of irrigation ditches and other water structures, ownership of water rights appurtenant thereto, and evaluation of any impacts of the Oil and Gas Operation to the structures, water rights or water quality.

15. **Roadway Impact Analysis.** An analysis of the impacts of the Operation to the roadway system within the County.

16. **Wildlife and Wildlife Habitat Analysis.** After consultation with the Colorado Division of Wildlife and the U.S. Fish and Wildlife Service, the applicant shall provide an analysis of existing wildlife and sensitive wildlife habitat, an evaluation of the impacts of the Operation on wildlife and sensitive wildlife habitat, and proposed mitigation.

17. **Vegetation.** A written description of the type, character, and density of existing and proposed vegetation on the parcel, a summary of the impacts of the Operation on vegetation, and proposed mitigation.

18. **Emergency Response Plan.** An emergency response plan that addresses fire protection and hazardous spills, including the name and contact information for the applicant's incident commander, proposed signage, access/evacuation routes, and health care facilities anticipated to be used. The plan shall include a provision for the Oil and Gas Operator to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency.

19. **Water Quality Non-Point Source Impacts.**

    a. **Identification of All Water Bodies.** An inventory and location of all water bodies within one (1) mile of the site.

    b. **Description of Existing Water Quality.** A description of existing water quality of all water bodies within one (1) mile

of the site, based upon a current baseline water quality analysis.

**c. Non-Point Source Impacts to Water Quality.** A description of potential non-point source pollution associated with the proposed Oil and Gas Operation.

**d. Mitigation and Avoidance.** Proposed avoidance and mitigation measures to minimize the water quality impacts associated with the Operation.

**20. Cultural Survey.** A cultural, historical, and archeological survey of the site, prepared by a qualified professional.

**21. Drainage and Erosion Control.** A plan that identifies existing and proposed drainage patterns and the methods for controlling erosion during construction and operation phases of the Oil and Gas Operation.

**22. Wildfire Hazards.** An assessment of wildfire hazards within one (1) mile of the site, and a plan for mitigating wildfire hazards.

**23. Geologic Hazards.** An assessment of the geologic hazards within one mile of the site, and a plan for mitigating geologic hazards.

**24. Existing and Future Land Uses.** A written summary of the existing uses of the site on which the Operation is proposed to occur, and the proposed future land uses of the site after completion of the Operation.

**25. Technical Infeasibility Waiver.** Documentation of the basis for any technical infeasibility waiver from the standards for Oil and Gas Operation that the applicant may request pursuant to Section 9-202 of these Regulations.

**B. Coordination with State or Federal Actions and County Permit Process.**

**1.** A copy of the Application for Permit to Drill or other application submitted to the Colorado Oil and Gas Conservation Commission (COGCC), and/or federal Environmental Assessment (EA) or Environmental Impact Statement (EIS) may be submitted to satisfy

one or more of the submittal requirements if it contains information sufficient to demonstrate compliance with these Regulations.

**2.** Final action by the County on an Oil and Gas Permit application may be delayed until any required Environmental Assessment (EA), Environmental Impact Statement (EIS) or required permit by a state or federal agency is issued, so that the County will have the benefit of the analysis and determinations made by other entities in reaching its own decision.

## Section 9-302 Basic Permit Review Procedures for Oil and Gas Operations.

**A. Pre-Application Conference.** Unless otherwise provided by these Regulations, all Oil and Gas Permit applications begin with a pre-application conference between the applicant and the [*Administrator/Director*] or staff.

**1. Purpose.** The pre-application conference is intended to provide information pertinent to the site and the proposal, to provide an understanding of the applicable review procedures and the standards to be met for approval of the application, and to explain the application materials required for submittal.

**2. Procedure.** An applicant shall make a request for a pre-application conference through the [*Administrator/Director*].

**a. Participants.** In addition to the [*Planning Department*] staff, if the [*Administrator/Director*]feels that the proposal raises potential issues for roads, access, parking, traffic, water supply, sanitation and/or natural resource protection, the appropriate staff shall be included in the pre-application conference.

**b. Staff Comments are Preliminary.** Any comments made by County staff during the pre-application conference are preliminary in nature and not binding. Formal comments cannot be made by staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to comment.

**B. Determination of Completeness.** Within ten (10) calendar days of receipt of the application materials, the [*Administrator/Director*] shall determine

whether the application for Oil and Gas Permit is complete based on compliance with the submittal requirements.

1. **Application Is Not Complete.** If the application is not complete, the [*Administrator/Director*] shall inform the applicant of the deficiencies, in writing**,** and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) calendar days, the application shall be considered withdrawn and returned to the applicant.

2. **Application Is Complete.** If the application is complete, the [*Administrator/Director*] shall certify it as complete and stamp it with the date of determination of completeness.

3. **Completeness Is Not A Determination of Compliance.** A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of these Oil and Gas Regulations.

**C. Public Notice Requirements.**

1. **Notice by Publication.** Notice of application for Oil and Gas Permit or public hearing shall be published in a newspaper of general circulation in the area that the Oil and Gas Operation is proposed to occur.

2. **Written Notice to Affected Parties**. Written notice of application for Oil and Gas Permit or public hearing shall be provided to affected parties as follows:

   a. **Adjacent Property Owners.** The applicant shall provide written notice to owners of real property within 1500 feet of the site on which the Oil and Gas Operation is proposed to occur.

      **(1)** The list of property owners to whom notice is mailed shall be compiled by the applicant. The burden is on the applicant to obtain complete and accurate current names and addresses for property owners to whom notice shall be given.

**b. Owners of Water Rights.** The applicant shall make reasonable efforts to provide written notice to any owners of water rights in any ditches or other water structures that may be impacted by the proposed Oil and Gas Operation

**(1)** The list of owners of water rights who may reasonably be affected by the Oil and Gas Operation shall be compiled by the applicant. The burden is on the applicant to obtain complete and accurate current names and addresses for property owners to whom notice shall be given.

**c. Owners of Non-Adjacent Property Within an Existing Subdivision or 35-Acre Tract Development.** If any part of an existing subdivision or 35-acre tract development is within 1500 feet of the site on which the Oil and Gas Operation is proposed to occur, the applicant shall notify *all* of the surface landowners within the existing subdivision or 35-acre tract development.

**3. Certified Mailing.** The applicant shall mail public notices by certified mail, return receipt requested, to the affected parties.

**a.** The applicant shall submit a list of the affected parties and proof of mailing to the Director.

**b.** For a notice of public hearing, the applicant shall provide the list of affected parties and proof of mailing to the Director at least one week prior to the public hearing.

**4. Validity of Notice.** If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of hearing or other conduct of the reviewing or decision-making body.

**5. Applicant Responsible for Cost.** The applicant shall be responsible for the cost of public notice.

**D. Review by Referral Agencies.** Upon determination that the application for Oil and Gas Permit is complete, the [*Administrator/Director*] may require the application materials, or any portion thereof, be submitted for professional

analysis and recommendations by any other agency, organization, or technical consultant deemed appropriate and necessary to complete the review, including: other County offices and departments; municipal, state, or federal agencies having an interest in or authority over all or part of the proposal; and legal consultants.

1. **Comment Period.** Unless otherwise provided by these Regulations, the comment period for referral agency review of an application for Oil and Gas Permit shall be twenty-one (21) calendar days from the date that the application is deemed complete. Responses not received in a timely manner may not be included in the processing of the application. A lack of timely response shall be interpreted as no comment.

2. **Applicant Responsible for Cost.** All costs associated with consultant and referral agency review shall be the applicant's responsibility.

   **a.** The County may require a deposit for payment of consultant and referral agency review costs, based upon estimated costs, at the time of application.

   **b.** The County may suspend the application review process pending payment of consultant and referral agency review costs.

**E. Evaluation by** [*Administrator/Director*], **Staff Review.** The [*Administrator/Director*] shall review the application to determine if the Oil and Gas Operation satisfies the approval standards in Section 9-201. The [*Administrator/Director*] shall prepare a staff report discussing whether the standards have been satisfied, issues raised through staff and referral review, mitigation requirements and recommended conditions for approval to ensure that standards are satisfied, and additional information pertinent to review of the application.

**Section 9-303. No Significant Impact Oil and Gas Operation Permit Review.** Applications for an Oil and Gas Permit subject to review as a No Significant Impact Oil and Gas Operation shall be reviewed by the [*Administrator/Director*] as follows.

**A. Outline of Process.** The review process for a No Significant Impact Oil and Gas Operation permit shall consist of the following procedures:

**1.** Pre-Application Conference
**2.** Application
**3.** Determination of Completeness
**4.** Public Notice of Application for Oil and Gas Permit
**5.** Evaluation by the [*Administrator/Director*]
**6.** Decision by [*Administrator/Director*]

**B. Review Process.**

**1. Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 9-302 A, *Pre-Application Conference*.

**2. Application.** The application materials required for an Oil and Gas Permit are set forth in Section 9-301.

**3. Determination of Completeness.** The [*Administrator/Director*] shall review the application for determination of completeness in accordance with the provisions of Section 9-302 B, *Determination of Completeness*.

**4. Review by Referral Agencies.** Upon determination that the application is complete, the [*Administrator/Director*] may require the application materials or any portion thereof to be submitted to a referral entity for review and comment, pursuant to the provisions of Section 9-302 D.

**5. Notice of Application for Oil and Gas Permit.** Public notice of application for Oil and Gas Permit shall be required for *all* No Significant Impact Oil and Gas Operation Permit applications. Notice shall be completed in accordance with Section 9-302C, and the following requirements:

**a. Contents of Notice.** A notice of application for Oil and Gas Permit shall identify the site on which the Operation is proposed to occur and include a narrative description of the proposed Operation, the deadline for comments to be submitted, and contact information.

**b.** **Publication of Notice.** The [*Administrator/Director*] shall publish a notice of application for Oil and Gas Permit at the earliest possible date following the date of determination of completeness.

**c.** **Mailing of Notice.** Within five (5) calendar days of the determination of completeness the applicant shall mail a notice of application for Oil and Gas Permit to affected parties, pursuant to Section 9-302 C.

**c.** **Comment Period.** The public comment period shall be twenty-one (21) calendar days from the date of determination of completeness.

**6.** **Evaluation by** [*Administrator/Director*], **Staff Review.** Upon determination of completeness, the [*Administrator/Director*] shall review the application for compliance with the approval standards set forth in Section 9-201. A staff report shall be prepared in accordance with Section 9-302 E.

**7.** **Director Decision.** Within thirty (30) calendar days of the date of determination of completeness, the [*Administrator/Director*] may approve, approve with conditions, or deny the application for Oil and Gas Permit for a No Significant Impact Oil and Gas Operation. The [*Administrator/Director's*] decision shall be based upon compliance of the proposed Oil and Gas Operation with the standards set forth in Section 9-201.

**a.** **Approval of Application.** If the application satisfies all of the applicable standards, the application shall be approved.

**b.** **Denial of Application.** If the application fails to satisfy all of the applicable standards, the application shall be denied; or

**c.** **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

**8.** **Written Notice of** [*Administrator/Director's*] **Decision.** The [*Administrator/Director*] shall inform the applicant and the affected parties of the approval, conditions of approval, or basis for denial in writing within five (5) working days of the date of decision. Notice

of the [*Administrator/Director's*]decision shall also be provided to the Board of County Commissioners.

**C. Reconsideration of** [*Administrator/Director's*] **Decision.**

**1. Determination by Board to Reconsider Decision.** Within fourteen (14) calendar days after the date of notice of the [*Administrator/Director's*] decision, the Board of County Commissioners may, at its discretion, decide to reconsider the [*Administrator/Director's*] decision.

**a. Schedule Public Hearing.** Public hearing by the Board shall be held at the next regularly scheduled meeting of the Board for which proper notice of public hearing can be accomplished.

**b. Public Notice.** Notice of public hearing by the Board of County Commissioners to reconsider the *Administrator/Director's* decision on a No Significant Impact Oil and Gas Operation permit application shall be in accordance with Section 9-302 C.

**(1)** Notice of public hearing shall be published and mailed to affected parties at least fifteen (15) calendar days prior to the date of the public hearing.

**c. Decision by Board.** The Board shall uphold the [*Administrator/Director's*] decision, modify the decision or reverse the decision, based upon compliance of the proposed Oil and Gas Operation with the approval standards in Section 9-201.

**(1)** The Board shall consider the evidence that was before the [*Administrator/Director*], and any additional evidence that may be presented to the Board regarding compliance with the requirements of these Regulations.

**2. Request by Applicant or Affected Party for Reconsideration of Decision.** Within fourteen (14) calendar days after the date of notice of the [*Administrator/Director's*] decision, any person aggrieved by the decision may request reconsideration by the Board.

**a.** **Written Request for Reconsideration**. A written request for reconsideration of the [*Administrator/Director's*] decision shall be submitted to the [*Administrator/Director*]. The request shall state the reasons why the Board should revise or reverse the decision.

**b**. **Schedule Public Hearing**. Public hearing by the Board shall be held within forty-five (45) calendar days of the date of receipt of the request for reconsideration.

**c.** **Public Notice.** Notice of public hearing by the Board of County Commissioners to reconsider the [*Administrator/Director's*] decision on a No Significant Impact Oil and Gas Operation permit application, shall be in accordance with Section 9-302 C.

**(1)** Notice of public hearing shall be published at least thirty (30) calendar days prior to the date of the public hearing, and mailed to affected parties at least twenty (20) calendar days prior to the date of the public hearing.

**d.** **Decision by Board.** The Board shall uphold the [*Administrator/Director's*] decision, modify the decision or reverse the decision, based upon compliance of the proposed Oil and Gas Operation with the approval standards in Section 9-201.

**(1)** The Board shall consider the evidence that was before the [*Administrator/Director*], and any additional evidence that may be presented to the Board regarding compliance with the requirements of these Regulations.

**Section 9-304.** **Minor Oil and Gas Operation Permit Review.** Applications for an Oil and Gas Permit subject to review as a Minor Oil and Gas Operation shall be reviewed as follows.

**NOTE:** A permit application for Minor Oil and Gas Application should have an abbreviated review process, with the Board or Planning Commission as the decision- making body. Following is a review procedure by which the Planning Commission is the decision-making body, with provisions for call-up/reconsideration by the Board.

**A. Outline of Process.** The review process for a Minor Oil and Gas Operation permit shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the [*Administrator/Director*]
5. Review and Action by Planning Commission

**B. Review Process.**

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 9-302 A, *Pre-Application Conference*.

2. **Application.** The application materials required for an Oil and Gas Permit are set forth in Section 9-301.

3. **Determination of Completeness.** The [*Administrator/Director*] shall review the application for determination of completeness in accordance with the provisions of Section 9-302 B, *Determination of Completeness*.

4. **Review by Referral Agencies.** Upon determination that the application is complete, the [*Administrator/Director*] may require the application materials or any portion thereof to be submitted to a referral entity for review and comment, pursuant to the provisions of Section 9-302 D.

5. **Schedule Public Hearing.** Upon a determination of completeness, the [*Administrator/Director*] shall schedule the application for consideration by the Planning Commission.

   **a.** Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.

6. **Public Notice.** Notice of public hearing by the Planning Commission shall be completed in accordance with Section 9-302 C.

a. **Contents of Notice.** The notice of public hearing shall identify the site on which the Operation is proposed to occur and include a narrative description of the proposed Operation; the date, time and location of the scheduled hearing; and contact information

b. **Publication of Notice.** The [*Administrator/Director*] shall publish a notice of public hearing at least fifteen (15) calendar days prior to the date of the public hearing.

c. **Mailing of Notice.** The applicant shall mail a written notice of public hearing to affected parties at least fifteen (15) calendar days prior to the date of public hearing.

7. **Evaluation by** [*Administrator/Director*], **Staff Review.** Upon determination of completeness, the [*Administrator/Director*] shall review the application for compliance with the approval standards set forth in Section 9-201. A staff report shall be prepared in accordance with Section 9-302 E.

8. **Review and Decision by Planning Commission.** The Planning Commission shall approve, approve with conditions or deny the application for Oil and Gas Permit for Minor Oil and Gas Operation, based upon compliance of the Operation with the approval standards in Section 9-201.

   a. **Approval of Application.** If the application satisfies all of the applicable standards, the application shall be approved.

   b. **Denial of Application.** If the application fails to satisfy all of the applicable standards, the application shall be denied; or

   c. **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

9. **Written Notice of Planning Commission's Decision.** The [*Administrator/Director*] shall inform the applicant of the approval, conditions of approval or basis for denial in writing within fourteen (14) calendar days of the date of the Planning Commission's decision. Notice of the Planning Commission's decision shall also be provided to the Board of County Commissioners.

**C. Reconsideration of Planning Commission's Decision.** Within fourteen (14) calendar days after the date of the Planning Commission's decision on a Minor Oil and Gas Operation permit application, any person aggrieved by the Commission's decision may request reconsideration by the Board of County Commissioners.

**1. Written Request for Reconsideration**. A written request for reconsideration of the Planning Commission's decision shall be submitted to the [*Administrator/Director*]. The request shall state the reasons why the Board should revise or reverse the decision.

**2**. **Schedule Public Hearing**. Public hearing by the Board shall be held within forty-five (45) calendar days of the date of receipt of the request for reconsideration.

**a. Public Notice.** Notice of public hearing by the Board of County Commissioners to reconsider the Planning Commission's decision on a Minor Oil and Gas Operation permit application shall be in accordance with Section 9-302 C.

**(1)** Notice of public hearing shall be published at least thirty (30) calendar days prior to the date of the public hearing, and mailed to affected parties at least twenty (20) calendar days prior to the date of the public hearing.

**3. Decision by Board.** The Board shall uphold the Planning Commission's decision, modify the decision or reverse the decision, based upon compliance of the proposed Oil and Gas Operation with the approval standards in Section 9-201.

a. The Board shall consider the evidence that was before the Planning Commission, and any additional evidence that may be presented to the Board regarding compliance with the requirements of these Regulations.

**Section 9-305. Major Oil and Gas Operation Permit Review.** Applications for an Oil and Gas Permit subject to review as a Major Oil and Gas Operation shall be reviewed as follows.

**A. Outline of Process.** The review process for Major Oil and Gas Operation permit shall consist of the following procedures:

**1.** Pre-Application Conference
**2.** Application
**3.** Determination of Completeness
**4.** Evaluation by the [*Administrator/Director*]
**5.** Joint Public Hearing by Planning Commission and Board of County Commissioners
**6.** Review and Recommendation by Planning Commission
**7.** Review and Decision by Board of County Commissioners

**B. Review Process.**

**1. Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 9-302 A, *Pre-Application Conference*.

**2. Application.** The application materials required for an Oil and Gas Permit are set forth in Section 9-301.

**3. Determination of Completeness.** The [*Administrator/Director*] shall review the application for determination of completeness in accordance with the provisions of Section 9-302 B, *Determination of Completeness*.

**4. Review by Referral Agencies.** Upon determination that the application is complete, the [*Administrator/Director*] may require the application materials or any portion thereof to be submitted to a referral entity for review and comment, pursuant to the provisions of Section 9-302 D.

**5. Schedule Joint Public Hearing.** Upon a determination of completeness, the [*Administrator/Director*] shall schedule the application for consideration by the Planning Commission and the Board of County Commissioners at a joint public hearing.

**a.** A joint public hearing by the Planning Commission and the Board of County Commissioners shall be held within forty-

five (45) calendar days of the date of determination of completeness.

6. **Public Notice.** Notice of joint public hearing by the Planning Commission and the Board of County Commissioners shall be completed in accordance with Section 9-302 C.

   a. **Contents of Notice.** The notice of public hearing shall identify the site on which the Operation is proposed to occur and include a narrative description of the proposed Operation; the date, time and location of the scheduled hearing; and contact information

   b. **Publication of Notice.** The [*Administrator/Director*] shall publish a notice of public hearing at least thirty (30) calendar days prior to the date of the public hearing.

   c. **Mailing of Notice.** The applicant shall mail a written notice of public hearing to affected parties at least thirty (30) calendar days prior to the date of public hearing.

7. **Evaluation by** [*Administrator/Director*], **Staff Review.** Upon determination of completeness, the [*Administrator/Director*] shall review the application for compliance with the approval standards set forth in Section 9-201. A staff report shall be prepared in accordance with Section 9-302 E.

8. **Review by Planning Commission and Board of County Commissioners.** The application for a Major Oil and Gas Operation permit shall be considered by the Planning Commission and the Board of County Commissioners at a properly noticed joint public hearing.

   a. **Recommendation by Planning Commission.** The Planning Commission shall recommend that the application for Major Oil and Gas Operation permit be approved, approved with conditions or denied, based upon the proposed Operation's compliance with the approval standards in Section 9-201.

   b. **Decision by Board of County Commissioners.** Following the joint public hearing and after considering the recommendation of the Planning Commission, the Board

shall approve, approve with conditions or deny the application for Major Oil and Gas Operation permit, based upon compliance of the proposed Oil and Gas Operation with the approval standards in Section 9-201.

**(1)** **Approval of Application.** If the application satisfies all of the applicable standards, the application shall be approved.

**(2)** **Denial of Application.** If the application fails to satisfy all of the applicable standards, the application shall be denied; or

**(3)** **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

## DIVISION 4 DEFINITIONS

**Section 9-401: Definitions.** The words and terms used in these Oil and Gas Regulations shall have the meanings set forth below. Where there is a conflict between these definitions and the definitions contained in Article 16, *Definitions* of the Land Use Code, the definitions of this Section shall control for purposes of this Article 9.

**Abandonment (of Nonconforming Use).** The intent to not continue the legally established nonconforming Oil or Gas Operation, coupled with the discontinuance of the nonconforming Oil or Gas Operation.

**Code.** *[title of County land use code].*

**Degradation**. Lowering in grade or desirability; lessening in quality.

**Flow lines.** Also known as or called gathering lines. The segments of pipe from the wellhead downstream through the production facilities ending at:

1. In the case of gas lines, the gas metering equipment; or

2. In the case of oil lines, the oil loading point or LACT unit; or

3. In the case of water lines, the water loading point, the point of discharge to a pit, or the injection wellhead.

**Ground Water.** Subsurface waters in a zone of saturation.

**Non-Point Source (NPS) Pollution.** Pollution that is caused by or attributable to diffuse sources. Typically, NPS pollution results from land runoff, precipitation, atmospheric deposition, or percolation.

**Oil and Gas Operations.** Exploration for oil or gas, including but not limited to conventional oil and gas and coalbed methane gas; the siting, drilling, deepening, recompletion, reworking, refracturing or abandonment of an oil and gas well; production facilities and operations including the installation of flow lines and gathering lines; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources.

**Operation**. Oil and Gas Operations.

**Operational Conflict.** The application of the County standard would, as a matter of law, materially impede or destroy the state interest in oil and gas or would stand as an obstacle to accomplishment and execution of congressional purposes.

**Operator.** The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the Operation.

**Production Facilities.** All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

**Regulations.** The Oil and Gas Regulations set forth in this Article 17.

**Sensitive Wildlife Habitat.** A natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leks, migration corridors, calving and fawning grounds for big game; critical winter range for big game and for sage grouse.

**Significant**. Of considerable or substantial consequence.

**Site.** An area one mile in radius around an existing or proposed well pad.

**Significant Adverse Effect/Impact.** An impact of an action, after mitigation, that is considerable or substantial, and unfavorable or harmful; includes social, economic, physical, health, aesthetic and historical impact, and biological impacts including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

**Water Body.** A perennial or intermittent river, stream, lake, reservoir, pond, spring or wetland, but does not include irrigation ditches or roadway drainage ditches or artificial lakes or ponds or wetlands that are created and used for the primary purpose of agricultural operations.

1. **Intermittent River, Stream, Lake, Reservoir, Pond, Spring or Wetland.** A water body that normally holds water or flows at least 60 days a year as a result of ground water discharge or surface runoff.

2. **Natural Water Body**. A water body not created for the purpose of a land use change.

3. **Perennial River, Stream, Lake, Reservoir, Pond, Spring or Wetland.** A water body that normally holds water or flows continuously during all of the year as a result of ground water discharge or surface runoff.

## DIVISION 5 FLOWCHARTS

### Section 9-501 No Significant Impact Oil and Gas Operation Permit Review Flowchart.

**Pre-Application Conference**
Section **9-302 A**

**Determination of Review Procedure**

**NO SIGNIFICANT IMPACT OIL AND GAS OPERATION PERMIT REVIEW**
Section **9-303**

**Application**
Section **9-303 B** [submittal requirements, Section **9-301**]
**Determination of Completeness**
Section **9-302 B** [within 10 days of receipt of application materials]

**Notice of Application for Oil and Gas Permit**
Section **9-303 B5**
1. publish notice at earliest possible date following date of determination of completeness
2. mail notice to affected parties within 5 calendar days of determination of completeness

**Evaluation by [*Administrator/Director*], Staff Review**
Section **9-302 E**
[compliance with standards in Section 9-201]

**Review by Referral Agency**
Section **9-302 D**
[21 day referral period]

**[*Administrator/Director's]* Decision**
Section **9-303 B7**
[approve, approve w/conditions or deny]

**Written Notice of Decision**
Section **9-303 B8** [within 7 days of decision]

**Reconsideration of Decision: Call-up by Board**
Section **9-303 C1**
[within 14 calendar days of date of Notice of Decision]

***or***

**Reconsideration of Decision:**
**Request by Applicant or Affected Party**
Section **9-303 C2**
[within 14 calendar days of date of Notice of Decision

**Schedule Public Hearing by Board**
Section **9-303 C1**
[first meeting for which15-day notice by publication and notice to adjacent property owners can be accomplished]

**Schedule Public Hearing by Board**
Section **9-303 C1**
[hearing within 45 calendar days of receipt of request; 30-day notice by publication; 20-day notice by mail to affected parties]

**Decision by Board** Section **9-303 C**
[uphold, modify or reverse the decision]]

## Section 9-502 Minor Oil and Gas Operation Permit Review Flowchart

**Pre-Application Conference**
Section **9-302 A**

**Determination of Review Procedure**

**MINOR OIL AND GAS OPERATION PERMIT REVIEW**
Section **9-304**

**Application**
Section **9-304 B** [submittal requirements, Section **9-301**]
**Determination of Completeness**
Section **9-302 B** [within 10 days of receipt of application materials]

**Schedule Public Hearing**
Section 9-304 B5
[to be held within 45 calendar days of the date of determination of completeness]

**Notice of Public Hearing**
Section **9-304 B6**
1. Publish notice of hearing
   [15 calendar days prior to hearing]
2. Notice to adjacent property owners
   [15 calendar days prior to hearing, by certified mail]

**Evaluation by [*Administrator/Director*], Staff Review**
Section **9-304 B7**
[compliance with standards in Section **9-201**]

**Review by Referral Agency**
Section **9-302 D**
[21 day referral period]

**Review and Decision by Planning Commission**
Section **9-304 B8**
[approve, approve w/conditions or deny]

**Written Notice of Decision**
Section **9-304 B9** [within 14 days of decision]

**Reconsideration of Planning Commission's Decision by Board**
Section 9-304 C
[within 14 calendar days after date of Planning Commission's decision]

**Schedule Public Hearing by Board**
Section **9-304 C2**
[hearing within 45 calendar days of receipt of request; 30-day notice by publication; 20-day notice by mail to affected parties]

**Decision by Board** Section **9-304 C3**
[uphold, modify or reverse the decision]]

## Section 9-503 Major Oil and Gas Operation Permit Review Flowchart

**Pre-Application Conference**
Section **9-302 A**

**Determination of Review Procedure**

**MAJOR OIL AND GAS OPERATION PERMIT REVIEW**
Section **9-305**

**Application**
Section **9-305 B** [submittal requirements, Section **9-301**]
**Determination of Completeness**
Section **9-302 B** [within 10 days of receipt of application materials]

**Schedule Joint Public Hearing by Planning Commission and Board**
Section 9-305 B5
[to be held within 45 calendar days of the date of determination of completeness]

**Notice of Public Hearing**
Section **9-305 B6**
1. Publish notice of hearing
   [30 calendar days prior to hearing]
2. Notice to adjacent property owners
   [30 calendar days prior to hearing, by certified mail]

**Evaluation by [*Administrator/Director*], Staff Review**
Section 9-305 B7
[compliance with appropriate standards Section 9-201]

**Review by Referral Agency**
Section 9-302 D
[21 day referral period]

**Review by Planning Commission and Board of County Commissioners**
Section 9-305 B8
[joint public hearing by Planning Commission and Board of County Commissioners to consider application]

**Recommendation by Planning Commission**
Section 9-305 B8
[following the joint public hearing, recommend approval, approval with conditions or denial based on standards in Section 9-201]

**Decision by Board of County Commissioners**
Section 9-305 B8
[following the joint public hearing, and after considering the recommendation of the Planning Commission, approve, approve with conditions, or deny]