

Initiative #88
2,000-foot Oil and Gas Setback Requirement

1 **Amendment ? proposes amending the Colorado Constitution to:**

- 2 ♦ require that all new oil and gas wells be located at least 2,000 feet from
3 an occupied structure; and
- 4 ♦ allow the owner of an occupied structure to waive the setback
5 requirement.

6 **Summary and Analysis**

7 ***Setback requirements for oil and gas wells.*** Current state regulations
8 require that oil and gas wells and production facilities not be located closer than:

- 9 • 500 feet from a home or other occupied building;
10 • 350 feet from a playground or other outdoor activity area; and
11 • 1,000 feet from high occupancy buildings such as schools, health
12 care institutions, correctional facilities, and child care centers.

13 This distance requirement, or setback, may be waived by the surface or building
14 owner.

15 Amendment ? requires that all new oil and gas wells be located at least
16 2,000 feet, or almost 0.4 miles, from an occupied structure, unless the owner of the
17 occupied structure waives the setback requirement.

18 ***State regulation of oil and gas.*** The Colorado Oil and Gas Conservation
19 Commission (commission) regulates oil and gas development in Colorado. The
20 commission is charged with promoting oil and gas development while protecting public
21 health and preventing negative environmental impacts. The commission is also
22 responsible for protecting surface land owners from unreasonable damage caused by
23 oil and gas development and ensuring that surface owners are consulted about the
24 location of drill pads and roads.

25 ***Mineral ownership in Colorado.*** In Colorado, surface land and the
26 underlying oil and gas resource may be owned by different parties. When this occurs,
27 surface owners are legally required to provide mineral owners with reasonable access
28 to their resources.

29 ***Improved oil and gas extraction technologies.*** Oil and gas operators
30 currently use hydraulic fracturing to increase production on roughly 90 percent of wells
31 drilled in Colorado. Hydraulic fracturing, or "fracking," involves injecting a mixture of
32 water, chemicals, and sand or other materials into geologic formations containing oil

1 or natural gas. This process fractures the formation and enhances the flow of oil or
2 natural gas into the well. Although hydraulic fracturing has been used in Colorado
3 since the 1940s, the technology has improved and become more prevalent. Fractured
4 wells are often also drilled horizontally to improve their efficiency.

5 **Oil and gas production in Colorado.** Colorado's oil and gas industry
6 generated about \$8.9 billion in oil and gas production value in 2012. According to the
7 U.S. Bureau of Labor Statistics, the industry accounted for about 27,600 direct jobs
8 including drilling, extraction, and product transportation. This represents about
9 1.2 percent of total jobs in the state and about 2.5 percent of total wages and salaries.

10 Improved oil and gas extraction technologies have led to substantial
11 production increases in Colorado. Oil production more than doubled between 2008
12 and 2013, with much of the new production occurring near populated areas of
13 northeastern Colorado.

14 **Local concerns about oil and gas production.** The increasing use of
15 hydraulic fracturing has raised concerns in some communities about potential
16 contamination of ground water, risks to local air quality, increased noise, and vehicle
17 traffic. While discharges and emissions are regulated by the state and federal
18 governments, uncertainty remains about the health impacts of these operations.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 4, 2014**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

1 **Arguments For**

2 1) Expanding the setback requirement for new oil and gas wells helps
3 respond to health and safety concerns associated with rapidly growing production. Oil
4 and gas wells can release toxic pollution into the environment, and the measure helps
5 keep this pollution away from homes, schools, and hospitals while still allowing oil and
6 gas development to occur.

7 2) Expanding the setback requirement for new oil and gas wells helps protect
8 property values. Production facilities can be an eyesore, and drilling increases traffic
9 and noise. By keeping oil and gas drilling away from occupied structures, the
10 measure helps protect property owners. It also empowers property owners to
11 negotiate mitigation measures like sound barriers before allowing wells within the
12 setback area.

1 **Arguments Against**

2 1) Oil and gas development is important to Colorado's economy. By
3 increasing the setback from occupied structures, this measure will make it more
4 difficult and expensive to access the state's mineral resources, leading to decreased
5 oil and gas production. This will diminish the benefits the oil and gas industry provides
6 to the state, jeopardizing new job creation, royalty payments, and tax revenue.

7 2) This measure penalizes mineral owners because it does not require that
8 they be compensated if the setback requirement makes it more costly or impossible to
9 develop their resources. This may lead to court challenges from mineral owners, who
10 expect to be able to use the property they own.

11 **Estimate of Fiscal Impact**

12 *(Please Note: A summary of the fiscal impact will be included in this space in the*
13 *second draft of the analysis, and an official fiscal note will be prepared and placed on*
14 *the web when the final blue book is sent to voters.)*