

FREQUENTLY ASKED QUESTIONS

Environmental Protection Performance Standards at Oil and Gas Well Sites

Area of review
(§ 78a.52a)

The purpose of this Frequently Asked Questions (FAQ) document is to highlight changes in and address questions about the new regulations. This FAQ should not be used in lieu of reference to the 2012 Oil and Gas Act, 25 Pa.Code Chapter 78a and other applicable laws and regulations. The answers outlined in this FAQ are intended to supplement existing requirements. Nothing in this document shall affect statutory or regulatory requirements.

This document is not an adjudication or a regulation. There is no intent on the part of the Department to give this document that weight or deference. The Department may supplement or amend this document at any time as necessary without notice.

- 1) If a landowner tells you about a well that you already have information on from databases, does a company need to communicate with the landowner further?

In instances where monitoring is required at the identified well, the operator would need to communicate with the landowner to arrange access and complete monitoring. If the well does not require monitoring, no further action would be necessary. (posted 10/13/16)

- 2) What constitutes an offset well?

The AOR TGD specifically defines offset wells as “any Active, Inactive, Orphan, Abandoned or Plugged and Abandoned well surrounding a well that is undergoing hydraulic fracturing.” (posted 10/13/16)

- 3) Does the DEP plan to update orphan well databases with new information provided by the submittal of AOR packages? What will the frequency of the updates be?

DEP is currently taking steps to develop processes for updating its own databases in response to information related to previously unknown abandoned well locations submitted by operators and locational information for known wells that is different than the record in DEP’s database. The preliminary plan is to compile and review AOR Summary Report information monthly, but field verification activities must always be completed by District staff and will be prioritized in consideration of other inspection/compliance and enforcement commitments. (posted 10/13/16)

- 4) How many and which AOR Summary Reports will DEP be reviewing prior to hydraulic fracturing?

DEP is currently establishing internal guidance relating to this matter. There is no regulatory obligation for an operator to wait for DEP approval prior to commencing activity. There is a provision in the regulation that permits DEP to identify reports deemed incomplete and require that additional information be submitted by the operator. (posted 10/13/16)

- 5) How long should we give the property owner to complete the landowner questionnaire form? What would be considered a reasonable amount of time?

The specifics of the situation dictate what a reasonable amount of time might be. DEP's AOR Technical Guidance Document recommends 10 business days, but if an operator suspects a well is present on a particular parcel that penetrates the zone of hydraulic fracturing influence, the level of effort to establish communication with the property owner and secure access to inspect and monitor the well should be commensurate with the perceived level of risk the offset well represents. (posted 10/13/16)

- 6) Can an operator ask DEP to review and approve the AOR Summary Report if the operator desires?

An operator may ask DEP to review an AOR Summary Report, but there is no regulatory requirement for an operator to receive DEP approval prior to commencing activity and DEP regulatory priorities will dictate the agency's actions. (posted 10/13/16)

- 7) Will the AOR TGD be posted for a formal public comment period for all regulated stakeholders to review and comment?

The AOR TGD was posted for a formal public comment period on October 8, 2016.

The development period for the AOR TGD extends back to October 2015 and the development process includes the establishment of a workgroup consisting of operators with unconventional and conventional wells, and other stakeholders. Discussions related to the AOR TGD were also held both during TAB and Conventional Oil and Gas Advisory Committee (COGAC) meetings. The current implementation plan involves publishing the AOR TGD as "Interim Final" upon promulgation of Chapter 78a, at which point a 60-day public comment period will be opened. A formal comment-response document will be developed in association with the public comment process. Any necessary changes will be made and reviewed with TAB, and the final publication of the AOR TGD will follow. (posted 10/13/16)

- 8) Why is the AOR report required 30 days prior to spud and not 30 days prior to hydraulic fracturing?

This question corresponds to a change that was made to the AOR regulatory language during the regulation development process. Numerous comments related to the timing of AOR surveys were received during the public comment period. The final regulatory language was adjusted to relate the AOR survey timing to the commencement of drilling. This allows a greater variety of risk mitigation strategies to be employed, including changing the well bore path to avoid a potential hydraulic fracturing communication incident. (posted 10/13/16)

- 9) Are wells that have already been drilled but have not been hydraulically fractured before the effective date of the regulations grandfathered from the AOR requirements? Or does an AOR Summary Report need to be submitted prior to hydraulically fracturing them?

For wells that have been permitted and drilled, but not yet hydraulically fractured, operators must still report any hydraulic fracturing communication incidents they become

aware of in accordance with the regulation and associated guidance. An AOR Summary Report, however, does not need to be submitted for such wells. (posted 10/13/16)

10) What constitutes "other available databases"?

During the AOR TGD development process, a significant amount of time was dedicated to developing a thorough list of reference sources for identifying offset wells. However, undoubtedly other reference sources are available that are not specifically listed in the AOR TGD. Operators should be using every available and relevant tool to identify offset wells in the AOR and characterize whether or not they penetrate the zone of hydraulic fracturing influence. Minimum expectations have been spelled out in the AOR TGD. In addition to DEP databases, one of the most comprehensive sources of well depth information in the state that must be referenced by operators completing the AOR survey each time is DCNR's OFOG 15-01.2 (also known as Map 10). (posted 10/13/16)

11) When will EDWIN Viewer be released?

There is not currently a definitive timeline for the public release of EDWIN Viewer, a project that is underway at our sister agency: DCNR's Bureau of Topographic and Geologic Survey. The contingency in place is to refer to DCNR's OFOG 15-01.2 (also known as Map 10). This source is available digitally as GIS layers and permits users to determine if select mapped offset wells penetrate the zone of hydraulic fracturing influence. (posted 10/13/16)

12) When will the additional information be available on the oil and gas mapping tool? What defines a "comprehensive" foot survey?

DEP is currently working through the process of developing Information Technology (IT) support for Chapter 78a. The particular enhancement referenced in the question is one DEP volunteered to complete in order to provide tools for the regulated community, but development is not scheduled to proceed along the same timeline as the development of the critical IT tools that are necessary to support implementation of the regulation. There is no current timeline established for updating the Oil and Gas Map Viewer. All of the additional reference sources are hyperlinked in the AOR TGD, when applicable; or assembled in the appendix of that document as a series of index maps.

A comprehensive foot survey literally involves an operator surveying "every square inch" of the AOR in an effort to identify offset wells. This can be limited to select portions of the AOR, provided the other areas are evaluated using desktop survey techniques and attempts are made to field verify wells requiring monitoring in situations where parcel access has been granted. (posted 10/13/16)

13) Will the Oil and Gas Map Viewer be updated when the regulations and AOR TGD is finalized and released?

There is currently no established timeline for enhancements to the Oil and Gas Map Viewer. (posted 10/13/16)

14) What is the process for unresponsive landowners? If a landowner completes the form and returns it to the operator, it may suggest that the landowner is in violation of section

3213(a.1) of the 2012 Oil and Gas Act, which states “After July 5, 1996, a well owner, well operator or other person discovering an abandoned well on property purchased or leased by the well owner, well operator or other person shall identify it to the department within 60 days of discovery.”

The AOR TGD defines scenarios where information provided by the landowner is not actionable:

- (1) The landowner does not complete the questionnaire within a reasonable timeframe or at all.
- (2) The landowner does not acknowledge that any physical evidence of a well’s presence exists nor do they indicate that they have any official records documenting the presence of a well.
- (3) The landowner claims they have physical evidence or official records documenting the presence of wells on their property but is unwilling to share such information with the operator.
- (4) The landowner will not grant access to the operator.
- (5) Research completed by the operator and documented along with the AOR report deliverables indicates that any wells that may be present on the landowner’s property are not likely to penetrate within the zone of hydraulic fracturing influence and the landowner has not provided any information that would call into question the validity of this determination.

DEP always has the option of applying enforcement discretion and will consider doing so for the referenced section of the 2012 Oil and Gas Act relating to the identification of abandoned wells. It is not possible to discuss every conceivable scenario, so the agency will make such decisions on a case-by-case basis.

The specifics of the situation also dictate what a reasonable amount of time might be with regard to completion of the landowner questionnaire. DEP’s AOR TGD recommends 10 business days, but if an operator suspects a well is present on a particular parcel that penetrates the zone of hydraulic fracturing influence, the level of effort to establish communication with the property owner and secure access to inspect and monitor the well should be commensurate with the perceived level of risk the offset well represents. (posted 10/13/16)

15) Why is the landowner survey only good for 3 years and not 5 years?

DEP has made two regulatory compliant tools available for completing the landowner questionnaire component of the AOR. Information gathered using the standard paper forms is valid for up to 3 years. Information gathered using the development plan option is valid for up to 5 years, upon DEP approval.

DEP acknowledges that information relating to abandoned wells is not necessarily as dynamic as that associated with active and inactive wells and, further, that a greater effort must be put forth for operators using the development plan option, as it covers greater areas. These are the reasons for the differences noted. For certain areas where a significant number of previously unknown abandoned wells are being identified, DEP may decide extending the “shelf life” to 5 years is not appropriate. (posted 10/13/16)

- 16) What group will review the AOR Summary Report at the DEP? Will we receive a written approval whether the AOR Summary Report is submitted with the permit application or separate? How long can we expect this review to take?

DEP is currently establishing internal guidance relating to this matter. There is no regulatory obligation for an operator to wait for DEP approval prior to commencing activity. There is a provision in the regulation that permits DEP to identify reports deemed incomplete and require that additional information be submitted by the operator. (posted 10/13/16)

- 17) Is "survey" defined?

It is specified in the AOR TGD that attempts should be made to field locate offset wells requiring monitoring. Any locational data submitted for field located wells must meet DEP's survey accuracy requirements (+/- 10 m). (posted 10/13/16)

- 18) If a landowner questionnaire is transferred to a new operator; and the well permit is renewed or reapplied for within the 3-year window during with the questionnaire is good for, must the landowner be re-notified?

The information collected as part of the landowner questionnaire process is transferrable to a new operator, but it must be provided by the previous operator on the DEP forms used to collect it. An operator must apply discretion regarding whether not the information provided under the previous survey should be updated, and some operators may prefer to complete their own landowner survey. If the location of the well bore changes and is inclusive of new parcels within the AOR, those additional landowners must be notified and provided an opportunity to complete the questionnaire. (posted 10/13/16)

- 19) If a well in an upper play would be drilled after a deeper well along the same lateral and within the 3 years of original landowner questionnaires, would new landowner questionnaires be necessary? Would a new AOR Summary Report need to be completed?

With regard to landowner questionnaires: these are intended to be comprehensive surveys that solicit information related to all wells that a landowner is aware of on their property. Depending on how that information is used and archived by the operator, there is a potential that it could be referenced and used for later, shallower development. However, if the operator only focused on specific aspects of the information provided by the landowner pertinent to the first round of development at the pad, there may be limitations that would prompt a second round of landowner questionnaires to be sent out.

A new AOR Summary Report is required for each unconventional well. (posted 10/13/16)

- 20) Are currently permitted wells not yet spud grandfathered?

Operators are not required to complete the AOR survey for currently permitted wells that have not yet been spud, but must notify DEP in accordance with the applicable regulations if they become aware of a reportable hydraulic fracturing communication incident. (posted 10/13/16)

21) Does a water well need to be identified within the zone of influence?

Water wells are not included in the categories of offset wells requiring identification and/or monitoring. (posted 10/13/16)

22) Can an operator submit the AOR Summary Report with the drilling permit application if the operator doesn't plan to spud within 30 days of receiving the permit?

Yes. The report must be submitted at least 30 days prior to well spud, but can be submitted earlier. Because the number and location of offset wells within the AOR may change, the AOR Summary Report should not come in any earlier than with the permit package. Operators may also wish to consider updating information gathered for the AOR if drilling or hydraulic fracturing activities are delayed significantly at any given location. (posted 10/13/16)

23) How were the hydraulic fracturing communication risk maps in DEP's September 29, 2016 webinar presentation generated?

The communication risk maps were generated by downloading the Geographic Information Systems (GIS) files associated with Department of Conservation and Natural Resources (DCNR) OFOG 15-01.2 (also known as Map 10) and comparing the well depths summarized in that database to a layer representing the top of the Marcellus Shale with a 1,500-foot vertical buffer added to it. (posted 10/13/16) (also78a.73)

24) When will the Area of Review (AOR) technical guidance document (TGD) be finalized? Where can the most up-to-date version be found?

The AOR TGD was released as "Interim Final" on October 8, 2016. A 60-day public comment period commenced at that time, after which a formal comment-response document will be prepared and necessary modifications to the AOR TGD made. Any modifications made will be reviewed with DEP's Technical Advisory Board (TAB). (posted 10/13/16) (also78a.73)

[The most recent version of the AOR TGD can be accessed at DEP's eLibrary.](#)

25) What are the levels of risk for well monitoring in the table based on (Low, Moderate, and High)?

Two tables were presented during the September 29, 2016 webinar: the first characterizing risk and the second characterizing the required level of monitoring at abandoned, orphan, and plugged wells. The risk terms (low, moderate, and high) correspond to the requisite level of monitoring (low, medium, and high).

A specific example of applying the information in the AOR TGD would be to consider an offset abandoned well likely to penetrate the zone of hydraulic fracturing influence with no information available related to the well's plugging status. The well represents a high-risk location and would require a high level of monitoring or containment during hydraulic fracturing of the closest approach segment of the lateral. (posted 10/13/16) (also78a.73)

26) When will the DEP Standard Monitoring Plan be released?

DEP's Standard Monitoring Plan has been formally released in association with the September 29, 2016 AOR webinar materials. The Standard Monitoring Plan was also reviewed during the September 29, 2016 webinar. It consists of a summary table that references what an operator must do in terms of monitoring at an offset well dependent upon the requisite level of monitoring (high, medium, or low) associated with that offset well. The Standard Monitoring Plan is also included in the interim final AOR TGD. (posted 10/13/16) (also78a.73)

27) An operator has a multi-well pad with two different producing zones in the horizontal (Upper Devonian and Marcellus). These zones are within 1500 feet. What monitoring is expected in these offset wells?

In this situation, the expected level of monitoring is most likely dependent upon a well's status: only abandoned, orphan, and plugged wells require monitoring. Notification requirements apply for active and inactive wells, or for abandoned and plugged wells that are the responsibility of an adjacent operator.

If the well is either active or inactive, and is the responsibility of the operator completing hydraulic fracturing, the operations team for the offset well must be notified 30 days prior to spud or at the time the permit is submitted if the new well will be spud within 30 days or permit issuance. The operations team could determine if some level of monitoring is appropriate, as only notification is required in these circumstances. If the offset well is plugged, the monitoring requirements do apply and would be based on the standards under which the well was plugged. (posted 10/13/16) (also78a.73)

28) What is the state's recommended approach for an operator that has a proposed unconventional well bore located in a historic abandoned well field? For the purpose of this question, there are 150 abandoned wells within the 1000-foot radius for the AOR and some of the wells have depth records, but most of the wells are of unknown depth. The known well depths are shallow oil wells less than 1,500 feet deep and it would be safe to assume the remaining unknown wells are at the same depth.

This scenario requires a site-specific assessment of the historic well field and the application of discretion by the operator. If there is uncertainty associated with the depths of offset wells, the operator should assume a worst-case scenario, that is, that the offset wells penetrate the zone of hydraulic fracturing influence, and complete the appropriate level of monitoring. If a site-specific analysis concludes that the well depths can be estimated with a low degree of uncertainty and they don't penetrate the zone of hydraulic fracturing influence based on this analysis, there is no monitoring requirement. The wells must still be plotted on the plat and recorded in the AOR Summary Report.

Some information related to this matter was provided during the September 29, 2016 webinar and it was indicated that in portions of the state, it is highly likely that a recently discovered abandoned well penetrates the zone of hydraulic fracturing influence. In other parts of the state, it is very unlikely that this is the case. This example represents a scenario where it would seemingly be appropriate for the operator to submit a site-specific narrative report detailing the assumptions of their offset well analysis. (posted 10/13/16) (also78a.73)