

FREQUENTLY ASKED QUESTIONS

Environmental Protection Performance Standards at Oil and Gas Well Sites

Logs and additional data
(§ 78a.123)

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) Will the Department require operators to log the surface string or will they accept other means of identifying surface water intervals?

Although petrophysical logging (use of electrical logging tools) and looking for water shows are both techniques that allow companies to make some determination about the presence of fresh, brackish, and saline intervals in the subsurface; there are no new requirements with regard to determining the base of fresh groundwater. Companies may employ the following analysis as stated in section 78a.1:

Deepest fresh groundwater—The deepest fresh groundwater bearing formation penetrated by the wellbore as determined from drillers logs from the well or from other wells in the area surrounding the well or from historical records of the normal surface casing seat depths in the area surrounding the well, whichever is deeper.
(posted 09/23/16)

- 2) Will the log database be available for public searches?

The log database is available from the DCNR on a subscription basis. (posted 09/23/16)

- 3) Are logs now required to be submitted or only if requested? If they are required, do we have to submit old logs or only logs run after the new regulations are implemented?

Logs that are created in the normal course of business are required to be submitted when Chapter 78a becomes effective. Only logs created when the chapter is in effect will have to be submitted. (posted 09/23/16)

- 4) If you don't run logs, what then?

If a well operator does not create logs, then no logs are required to be submitted, unless the DEP requests the information prior to the commencement of drilling. (posted 09/23/16)

5) How will the logs that are now mandatory to be submitted be kept confidential?

As an initial point, the standard logs are typically requested by the Department already under existing authority, including section 3222(b)(4) of the 2012 Oil and Gas Act.

The final-form rulemaking does not change Section 707(b) of the Pennsylvania Right to Know Law (RTKL) outlines the procedure for the production of records containing trade secrets or confidential proprietary information (CPI):

“An agency shall notify a third party of a request for a record if the third party provided the record and included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information. Notification shall be provided within five business days of receipt for the record. The third party shall have five business days from receipt of notification from the agency to provide input on the release of the record. The agency shall deny the request for the record or release the record within ten business days of the provision of notice to the third party and shall notify the third part of the decision.”

This section of the RTKL states that notice of a RTKL request is given to third parties who provide a signed written statement simultaneously with the submission of its records. The statement of the third party must assert that the records contain, or are, Trade Secrets/CPI. The Department has interpreted this provision to exclude the act of generically stamping records as CPI/Trade Secret since it does not meet the written, signed, statement requirement.

By providing written notification as required by the statute, the Department will timely notify you of a RTKL request and give you an opportunity to provide additional information for the Department’s final response as it pertains to your records and the issue of trade secret/CPI. (posted 09/23/16)

6) How long can our logs be held confidential?

The logs may be held confidential until a Right to Know Law is received. At that point, the Department will follow the procedure outlined in Section 707 of the RTKL. (posted 09/23/16)

7) Will the timeframe for issuance of well permits remain the same or change? Will there be a timeframe? Well permits from submittal to issuance are taking 45 to 90 days at present?

The rulemaking hasn’t change timeframe for issuing permits, which is set by the Department’s permit decision guarantee policy. More information about the permit decision guarantee can be found here:

<http://www.dep.pa.gov/Business/ProgramIntegration/DecisionGuarantee/Pages/default.aspx> (posted 11/30/16)