



Oil and Gas Management

# **Revised Rulemaking Proposal for Environmental Protection Standards at Oil and Gas Well Sites**

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# Surface Activities Rulemaking

- Background of Rulemaking
- Bifurcation
- Current Status
- Final Rulemaking Formatting
- Substantive Changes to Conventional Rules

# Surface Activities Rulemaking

- Proposed regulation published 12/14/2013
- 90-day public comment period
- Nine public hearings – 300+ persons testified
- Public Comments
  - Around 25,000 letters, emails, petitions, etc.
  - 1,200-1,500 unique comments/commentators
  - Around 22,000 form letters, petition signatures

# Bifurcation

- Act 126 of 2014 requires regulations relating to conventional oil and gas wells to be promulgated separately from regulations relating to unconventional wells.
- DEP is proceeding with one process to promulgate separate rules.
- Chapter 78 – Conventional
- Chapter 78a – Unconventional

# Current Status

- March 20, 2015 – Oil and Gas Technical Advisory Board (TAB) – Ch. 78a (unconventional)
- March 26, 2015 – Conventional Oil and Gas Advisory Committee (COGAC) – Ch. 78 (conventional)
- April 4, 2015 – Advanced Notice of Final Rulemaking – 30 days public comment, no hearings.

# Final Rulemaking Formatting

- Existing text
- \* \* \* \* \* indicates existing that is retained
- Existing text deleted on proposed [**text**]
- Existing text that is deleted on final [~~text~~]
- Added on proposed and retained text
- Added on proposed and deleted [~~text~~]
- Added on final TEXT

# Substantive Changes – 78.1

- New Definitions for:
  - Abandoned Water Well
  - Building
  - Certified Mail
  - Other Critical Communities
  - Public Resource Agencies
  - PNDI Receipt
  - Threatened and Endangered Species

# Substantive Changes – 78.15

- Water Resources
  - 100 foot setback from streams and wetlands struck down by *Robinson Township*
  - Uses Clean Streams Law authority to require operator to demonstrate that streams and wetlands will be protected if edge of pad is within 100 feet of the resource.



# Substantive Changes – 78.15

- Public Resources

- Increased the scope of the review to the limit of disturbance
- Includes additional public resources
  - Schools
  - Playgrounds
  - Approved well head protection areas
- Resource agencies provided 30 days review of an application

# Substantive Changes –78.17

- Permit expiration and renewal
  - Provides that a well permit expires within 1 year of issuance if drilling has not commenced
  - If drilling has commenced within the year, the permit expires unless drilling is pursued with due diligence (total depth within 16 months of issuance)

# Substantive Changes – 78.17

- Permit expiration and renewal (cont.)
  - Renewals will be good for 2 years
  - New water wells or buildings must be included on a revised plat
    - New water well or building owners must be notified of the renewal
    - However setbacks will not apply

# Substantive Changes – 78.51

- Protection of Water Supplies
  - Water supply restoration standard
  - New language in Act 13 – “exceed”
  - Rules make it explicit that water supply must be restored to the better of pre-drill conditions or Safe Drinking Water Act standards.

# Substantive Changes – 78.52a

- Area of Review

- Adds Active and Inactive Well Identification
- Must identify surface and bottom hole locations
- Within 1,000 feet horizontally from the vertical well bore and 1,000 feet measured from the surface above the entire length of the horizontal well bore for unconventional well, conventional gas (when using hydraulic fracturing) or a horizontal oil well.
- Within 500 feet of the vertical well bore for vertical oil well.

# Substantive Changes – 78.52a

- Area of Review (cont)
  - Requires operators to review
    - DEP’s databases and other available databases
    - Historical sources – farm line maps
    - Landowner questionnaire
  - Requires operators to submit a report summarizing the review at least 30 days prior to commencement of drilling
  - Adds a monitoring plan component (§ 78.73)

# Substantive Changes – 78.56

- Temporary Storage
  - Requires approval by DEP for installation of a modular above ground storage structure
  - Requires notification 3 business days prior to installation of modular above ground storage structure and pits
  - Pits greater than 1,000 square feet must have 2:1 slope

# Substantive Changes – 78.57

- Produced Fluid Storage
  - Eliminates use of pits to store brine
  - 6 months after promulgation notify DEP of location
  - Remove pit 12 months after promulgation
  - Buried tanks allowed. Corrosion control requirements imposed
  - Vandal proofing eliminated. Replaced with monthly inspection requirement.



# Substantive Changes – 78.57a

- Centralized Tank Storage
  - Creates a new section
  - Use of centralized aboveground tank storage facilities offers an effective alternative that provides superior environmental protection and flexibility for operations
  - Not intended to apply to current conventional oil and gas operations

# Substantive Changes – 78.58

- Onsite Processing
  - Specifies that any mixing of fluids with freshwater, aeration, or filtration of solids from fluids must be done within a containment system
  - Requires notification to DEP 3 business days prior to processing.
    - Notifies inspectors that an activity is occurring

# Substantive Changes – 78.59a

- Impoundment embankments
  - Adds requirements to the construction of freshwater impoundment embankments
  - Provides that soil must be compacted to 95% of the standard proctor, consistent with ASTM D698
  - Specifies that compaction must be verified by field density testing, in accordance with ASTM D1556 or ASTM D6938
  - Operators may deviate from requirements, but must demonstrate that alternate practice provides equivalent or superior protection.

# Substantive Changes – 78.59c

- Centralized Impoundments
  - Removes these sections from Chapter 78
  - Oil and Gas Operators will be required to permit centralized wastewater impoundments through the Residual Waste Regulations
  - Any operator currently using one must submit a closure plan within 6 months of the effective date of the rule OR
  - obtain a permit in accordance with Chapter 289 (Residual Waste) within 3 years
  - Specifies information that must be included in the closure plan

# Substantive Changes – 78.60-78.63

- Disposal of Drill Cuttings
  - Prohibits the disposal of cuttings and waste within a floodplain
  - Requires landowner notice

# Substantive Changes – 78.63a

- Alternative Waste Management
  - Allows operators to request the ability to use an alternative waste management practice
  - Requires demonstration that the practice provides equivalent or superior protection
  - Allows for flexibility and technological advancements

# Substantive Changes – 78.64

- Condensate Tanks
  - Requires condensate tanks with greater than 1,320 gallons capacity to meet oil tank requirements
    - when installed (new)
    - within 2 years of the effective date or when replaced (existing)
  - Clarifies SPCC requirements

# Substantive Changes – 78.65

- Site restoration
  - Requires operators to restore land surface areas within 9 months after completion of drilling or
  - Within 30 calendar days after the expiration of all existing well permits on a well site, which ever occurs later (if there are multiple wells on a well site)



# Substantive Changes – 78.65

- Site restoration (cont.)
  - Post plugging:
    - Within 9 months, the well site should be restored to approximate original conditions
  - Failure to Drill:
    - If a well site is constructed and a well not drilled, the operator must restore the site within 30 days unless an extension is approved by DEP
  - Restoration Period:
    - May be extended, not to exceed 2 years

# Substantive Changes – 78.65

- Site restoration (cont.)
  - Areas not restored:
    - Must comply with Chapter 102
    - Clarification of the applicability of 102.8(n)
  - Post drilling restoration reports:
    - Must be submitted 60 calendar days after post-drilling restoration
    - A copy must be forwarded to landowner
  - Post plugging restoration reports:
    - Must be submitted 60 calendar days after plugging restoration
    - A copy must be forwarded to landowner

# Substantive Changes – 78.66

- Reporting and remediating spills and releases
  - Requires Act 2 cleanup process and standards
  - Establishes cleanup timeframes for spills and releases

# Substantive Changes – 78.67

- Borrow pits
  - Clarifies when the noncoal surface mining exemption applies
  - Requires operators who constructed a borrow pit prior to the effective date of the rule have the borrow pit inspected for compliance within 180 days
  - If they do not meet requirements, they must be upgraded or closed within 1 year of the effective date

# Substantive Changes – 78.122

- Well record and completion report
  - Requires reports to be submitted electronically
  - Data will be useable
  - Hope to reduce RTK Requests

# Substantive Changes – 78

- Deletes Subchapter X. Statement of Policy
  - Outdated
  - Replaced by updated Oil and Gas Compliance and Enforcement Policy



**pennsylvania**

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Oil and Gas Management



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