

FREQUENTLY ASKED QUESTIONS

Environmental Protection Performance Standards at Oil and Gas Well Sites

Well Permits and Reporting

(§§ 78a.11 – 78a.19, 78a.121 – 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) What is required for transfer of ownership of well? Just a notice within 30 days, or a transfer application and approval by DEP?

This is not new or changing in the final rulemaking. The requirements regarding transfer of well ownership are specified in Section 78a.14 and have been in place since 1989. Please note that the transfer of well ownership and the transfer of permit to drill or operate a well are separate transactions. An application for a well permit transfer will only need to be submitted if there is a change in the well operator as a result of the transfer of well ownership. The requirements regarding the transfer of a permit to drill or operate a well are specified in Section 78a.13. A permit to drill or operate a well cannot be transferred without written approval of the Department of Environmental Protection (DEP).

[Transfer of Well Ownership vs. Transfer of Well Permit FAQ \(PDF\)](#)

- 2) Notifying DEP within 30 days of transfer of ownership seems to be at odds with needing DEP's approval to transfer well permits. Can you please explain how transfer of ownership and transfer of well permits work together?

Sections 78a.13 and 78a.14 address this question directly. The new owner/operator is required to notify DEP in writing within 30 days after the transfer of ownership of the well. The notice has to include an application for a well permit transfer if there is a change in the well operator. A transfer of ownership can occur without changing the operator. Section 78a.13 addresses permit transfers, saying no transfer, assignment, or sale of rights granted under a permit or registration may be made without prior written approval of the Department. Permit transfers may be denied for the reasons set forth in Section 3211(e.1), (4) and (5) of the 2012 Oil and Gas Act (relating to well permits).

If the ownership of a well is transferred, but an application to transfer the permit is not submitted to DEP and approved, the responsibility for complying with the

2012 Oil and Gas Act and with Chapter 78a remains with the permittee on record with the Department.

- 3) Transferring a conventional well. Can a landowner take possession of a conventional well and does that follow the same transfer process?

Yes. The well transfer process in Chapter 78 has not changed.

Landowners should be aware of the costs of compliance of being a gas well operator, including bonding, quarterly integrity well inspections and annual production/waste reporting, gas migration response if the well leaks, and plugging costs.

- 4) How will the Department review requests to renew a permit issued under the existing Chapter 78 regulations when the renewal request is made after the effective date of the new Chapter 78a regulations, in light of the new public resources considerations, etc.?

Renewal applications must meet the requirements of section 78a.17(b), including the permit fee and surcharge, an affidavit affirming that the information on the original application is still accurate and complete, that the well location restrictions are still met and that the entities required to be notified under Section 3211(b)(2) of the 2012 Oil and Gas Act (relating to well permits) have been notified of this request for renewal.

- 5) Please define “good cause” in regards to the extension request under section 78a.17.

Good cause will be evaluated on a site-specific basis. The request should indicate the reason why the well drilling cannot be completed within the allotted 16 months. A possible example of good cause would be that the vertical portion of a well is drilled, but a rig capable of drilling horizontal will not be available for another three months.

Drilling must be pursued with due diligence, or the permit will expire. Drilling pursuant to a permit must be commenced during the 12 months following permit issuance to be eligible for a due diligence period extension.

[Due Diligence for Drilling a Well FAQ \(PDF\)](#)

- 6) When will the extension request form be available? When will the updated Well Permit Form be available?

The forms will be available in eLibrary when the rulemaking is published in the *Pennsylvania Bulletin*.

- 7) Will well permit renewals be required to be submitted electronically?

Yes, the new electronic submission systems required for the current rulemaking are in development and internal testing. DEP has scheduled training on the new systems on October 4 and 5.

eNotifications: This will be very similar to what operators currently use for spud dates, cementing casing strings, and pressure testing wells. The well operator will log in through GreenPort, indicate via a drop-down menu what kind of notification, and then provide the appropriate details.

eSubmissions: The goal is to have electronic applications online. This system will operate in the interim as a file upload portal. The operator will log in through GreenPort, access the eSubmission portal, select a submission, select a document file on the well operator's computer, and finally upload and submit the file to the Department electronically.

eWell: The electronic well permitting application has already been available for well operators to use for about 18 months for submitting DOW permit applications. It will include renewals, modifications (e.g., changes to the BHL, changes to the wellbore path, drilling deeper, alterations, change in use, etc.), and re-drilling of plugged wells.

- 8) If an operator has a permit to drill a well prior to the effective date of the rulemaking but has not drilled the well yet, will the operator be allowed to drill the well when the rulemaking becomes effective?

Yes, however, operators must follow all provisions of Chapter 78a relating to the new well, including subsequent submissions such as the well record and completion report.

- 9) The \$250 surcharges are still to be in addition to the permit fees correct? So it would be \$4200 or \$5000 plus \$250 correct?

That is correct. The \$250 surcharge for gas wells and the \$150 surcharge for oil wells is imposed by Section 3271 (pertaining to well plugging funds) of the 2012 Oil and Gas Act and is not changed by this rulemaking.

- 10) What is a "nonvertical unconventional well"? How is it different from a vertical one?

These terms are defined in Section 78a.1:

Nonvertical unconventional well—

- (i) An unconventional well drilled intentionally to deviate from a vertical axis.
- (ii) The term includes wells drilled diagonally and wells that have horizontal bore holes.

Vertical unconventional well—An unconventional well with a single vertical well bore.

The well permit application instructions state, "If the wellbore is intended to be deviated from vertical by more than 3 degrees, check deviated."

- 11) When will the new production and waste report forms be available? When will the new Completion Report forms be available?

There is no paper form for production and waste reporting. Production and waste reporting has been electronic for several years.

The completion report form will be available in eLibrary when the final rulemaking is published in the *Pennsylvania Bulletin*.

- 12) Regarding monthly waste reporting, when will this begin (i.e., January 2017 or earlier)?

Because the final rulemaking will be published in the middle of the current reporting period, monthly waste reporting will begin with the January 2017 report, which is due March 17, 2017. Operators will submit the report covering the period from July 1, 2016 through December 31, 2016 on February 15, 2017.

- 13) Will the Department transition from paper permitting to e-permitting or will there be a drop dead day?

The deadline will be when the regulation becomes effective. DEP does not expect much difficulty for the well operators to switch over to the electronic reporting system. The electronic system may be easier, for example, because submission of the certified mail receipts will not be required. A simple check-box will be used to certify that the required notifications were delivered. A definition of "certified mail" has also been included in section 78a.1 to allow delivery options equivalent to United States Postal Service (USPS) certified mail but from other delivery services in addition to the USPS.

- 14) Regarding Well Records and the start of the "30-Day Clock". Does drilling mean - well has reached final total depth (TD) or when final casing is cemented in the hole. There could be a day or two of lag between finish of drilling and "complete construction" of the well.

The 30 day clock for submitting a well record begins when the drilling reaches TD.

[FAQ: Clarification Regarding Well Record Submission Requirements](#)

- 15) 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.

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

The log database is available from the DCNR on a subscription basis.

- 17) What is the anticipated start date for well permit applications to be filed electronically? What is the deadline for the entering the files in the new electronic data base?

Operators must submit well permit applications electronically beginning on the effective date of the rulemaking.

- 18) Will the Department be available to work with IT solutions for e-reporting/permitting uploads rather than data entry?

Yes.

- 19) If well permit applications are submitted prior to publication of the final-form rulemaking, will they be grandfathered?

Yes, DEP will process applications under the regulations that were effective when the applications are submitted, so long as the application is administratively complete before the publication of the final rulemaking.

- 20) What needs to be on the "Certification of Area of Review" when it is submitted with the Completion Report? Is there a DEP form for this?

The certification of implementation of the area of review monitoring plan is contained in the signature block of the well completion report form.

- 21) 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.

22) 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.