

EXECUTIVE SUMMARY

Emergency Response Planning for Unconventional Wells (Amendments to Chapter 78)

The Act of February 2, 2012, P.L. 67, Act 9 (Act 9), requires the Pennsylvania Emergency Management Agency (PEMA) and the Department of Environmental Protection (DEP) to adopt emergency regulations directing the operators of all unconventional wells within this Commonwealth to take certain actions for emergency response. Section 6(d) of the Regulatory Review Act, 71 P.S. § 745.6(d), authorizes the promulgation of emergency final-omit regulations. This regulation is an emergency final-omit regulation as called for by Act 9.

DEP and PEMA have worked closely in developing this regulation. This regulation adds two definitions to 25 Pa.Code § 78.1, and adds five paragraphs to 25 Pa.Code § 78.55, in a new subsection 78.55(e). The new definitions are for “unconventional formation” and “unconventional well.” Those two definitions are taken verbatim from the 2012 Oil and Gas Act, 58 Pa C.S.A. §§ 3201 – 3274.

Section 78.55(e)(2) contains definitions of terms used in Act 9, and others that are needed to clarify the requirements of the regulation. These definitions are only applicable to the new provisions in section 78.55(e). The definitions include several terms to ensure clarity of the requirements for signs (“access road,” “administrative road,” “entrance,” “private road,” “public road,” “reflective”).

Section 78.55(b)(3) requires registration of street addresses, and GPS coordinate addresses, needed to assist emergency responders in locating well sites. Section 78.55(b)(4) contains signage requirements for the same purpose. Section 78.55(b)(5) contains requirements for emergency response planning. Finally, section 78.55(b)(6) contains a transition to allow for existing operations, and others, to meet the new requirements within a reasonable time period after publication of the regulation.

The emergency response plans must utilize the concepts of the National Incident Management System to the maximum extent practicable, and the key elements are described in new section 78.55(b)(5). The plan must contain a list of the materials and wastes at the well site at the time the plan is developed. The plan must have a procedure for providing the most current information to emergency responders in the event of an emergency.

The initial emergency response plan must be submitted to PEMA and the county emergency management agency. Annual updates must be submitted after that, although if there are no changes needed to the plan, the operator must only submit a statement to that effect.

Act 9 explicitly applies to unconventional wells existing in the Commonwealth as of the effective date of the Act. To account for this, section 78.55(b)(6) allows for delayed effective dates for well sites containing a well that is being drilled or has been drilled, well sites for which a well permit has been issued but no wells have commenced drilling, and well sites for which an administratively complete application is pending.