

FREQUENTLY ASKED QUESTIONS

Environmental Protection Performance Standards at Oil and Gas Well Sites

Protection of water supplies
(§ 78a.51)

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) For purposes of section 78a.51(d)(2), how will "comparable" be determined? What constituents will be considered in that determination?

Predrill/prealteration surveys, historical monitoring data, investigative samples will be some of the tools used to determine the pre-impact quality of the water supply source in question. (posted 09/23/16)

- 2) The predrilling survey mainly covers the establishment of baseline water quality, yet there is little mention of baseline quantity conditions. Does DEP intend to establish parameters of quantity testing for rebuttable presumption, much like the Bureau of Mining and Reclamation does? How will the department determine the quantity to be restored?

Section 78a.51(d)(3) states:

A restored or replaced water supply will be deemed adequate in quantity if it meets one of the following, as determined by the Department:

- (i) It delivers the amount of water necessary to satisfy the water user's needs and the demands of any reasonably foreseeable uses.
- (ii) It is established through a connection to a public water supply system that is capable of delivering the amount of water necessary to satisfy the water user's needs and the demands of any reasonably foreseeable uses.
- (iii) For purposes of this paragraph and with respect to agricultural water supplies, the term reasonably foreseeable uses include the reasonable expansion of use where the water supply available prior to drilling exceeded the actual use."

The quantity of water available that needs to be restored is based upon the current needs and demands the water supply provides and any reasonably foreseeable uses that could have been expected from the water supply. Also, if it is a water supply used for agriculture, the restored water supply quantity must address the potential for the

expansion of use when the water supply that was available prior to drilling exceeded the actual use. Therefore, each water supply will need to be judged on a case by case basis. Since well drillers' logs may be unavailable or inaccurate and water well yields may diminish over time, the Department will primarily rely on current demand and reasonably foreseeable uses of the water supply to make its final determination as to what amount of quantity needs to be readily available through yield and storage to meet the water user's water demand needs. Operators may determine a water supply's yield and the demands on it when conducting the predrill/prealteration surveys, so that the results may be used as a defense when diminution is being claimed. (posted 09/23/16)