

FREQUENTLY ASKED QUESTIONS
Environmental Protection Performance
Standards at Oil and Gas Well Sites
Control and disposal planning; emergency response for
unconventional wells
(§ 78a.55)

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) Is fresh water released to a well pad considered a “regulated substance?”

Please refer to the definition of “regulated substance” in Section 103 of Act 2 (35 P.S. § 6062.103). In general, freshwater is not a regulated substance when spilled on a well pad. However there could be site specific circumstances where fresh water released to a well pad impacts waters of the Commonwealth or poses a threat of pollution to waters of the Commonwealth. Fresh water could constitute a “regulated substance” in certain volume and if it contains chlorine, additives, algacides or other polluttional constituents. This would require reporting under Section 91.33. (posted 09/26/16)

- 2) Will the Department be creating a new guidance document for preparing PPC plans? The current guidance document the regulation references (the EERP Guidance Document) does not fit well with the temporary construction activity associated with O&G operations.

DEP’s policy, *Guidelines for the Development and Implementation*

of Environmental Emergency Response Plans, Document No. 400-2200-001, provides appropriate guidance for Preparedness, Prevention, and Contingency (PPC) planning during oil and gas operations construction activity. DEP is currently in the process of developing a guidance document that integrates the various planning document requirements in a single source of information. Providing guidance for standardization of Emergency Response Plan (ERP) formats, maps, and symbols is critical for emergency responders during incidents. In addition, DEP is working with the Pennsylvania Emergency Management Agency (PEMA) on a new guidance to implement the emergency response plan (ERP) requirements. (posted 09/26/16)

- 3) Who at PEMA should be contacted and what is the number?

The 24/7 PEMA number for reporting incidents is **800 424 7362** (posted 09/26/16)

- 4) Does the requirement for implementing National Incident Management System (NIMS) in the event of a well emergency require the use of the FEMA ICS team forms?

In accordance with section 78a.55(i)(5)(i), the ERP shall incorporate NIMS planning standards, including the use of the Incident Command System (ICS), Incident Action Planning and Common Communications Plans. Any forms used under NIMS should be used as appropriate. DEP realizes that some forms may not be suitable for direct use for unconventional emergency response plans/incidents and customizing forms may be necessary. (posted 09/26/16)

- 5) Does DEP expect that universal symbols will be defined and required for the ER plans/diagrams?

Map symbols will be evaluated during development of ERP guidance to be issued by DEP in coordination with PEMA. While these items may not necessarily be “required” in the final guidance document, they will be strongly recommended as universal symbols in order to prevent any confusion during an emergency situation. DEP and PEMA will see public comment on this this matter. (posted 09/26/16)

- 6) Are PPC Plans required for producing well locations?

In accordance with Section 78a.55(b), a well operator shall prepare and develop a site specific PPC plan prior to storing, using, or generating regulated substances on a well site from the drilling, alteration, production, plugging or other activity associated with a gas well or transporting those regulated substances to, on or from a well site. (posted 09/26/16)

- 7) What is the timeline for an operator to provide a copy of the PPC plan once requested by the landowner?

Under Section 78a.55(f), “a copy of the well operator’s PPC plan shall be provided to the Department, the Fish and Boat Commission or the landowner upon request and shall be available at the site during drilling and completion activities for review.” There is no specified timeline, operators should provide PPC copy to landowner in a timely manner. (posted 09/26/16)

- 8) Can landowner also request a copy of the ERP?

A landowner can” request” a copy of the ERP, however there are no specific requirements under Section 78a.55 that require the operator to provide it upon request. A copy of the ERP shall be available at the well site during all phases of operation. ERPs are also available for review on DEP’s Oil and Gas Mapping application. A learning tutorial on the mapping application is available at <https://www.youtube.com/watch?v=OAAKQnOh048> (posted 09/26/16)

- 9) Is not providing a copy of the PPC plan to the parties listed in section 78a.55(f) a violation?

Yes, the violation would be failure to provide a copy of PPC plan as required under section 78a.55(f). (posted 09/26/16)

10) How often does DEP request copies of PPC plans?

Requests for PPC plans will vary according to inspector preference, site-specific situations, compliance reviews, permit compliance issues, spills, fires, accidents, and complaints. (posted 09/26/16)

11) How is compliance with PPC plans determined on an ongoing basis?

Operators need to prepare, develop, and implement site specific PPC plan prior to storing, using, or generating regulated substances on a well site from the drilling, alteration, production, plugging, or other activity associated with a gas well or transporting those regulated substances to, on or from a well site. A PPC plan developed in conformance with the *Guidelines for the Development and Implementation of Environmental Emergency Response Plans*, Document No. 400-2200-001, as amended and updated, will be deemed to meet the requirements of this section and be considered “in compliance.” An inspector may review the operator’s implementation of the PPC plan to ensure that the plan is being implemented properly, and require corrective action if needed. (posted 09/26/16)

12) Please clarify the requirements for reporting a spill versus requirements for documenting spills in a PPC plan.

The Department’s *Guidelines for the Development and Implementation of Environmental Emergency Response Plans*, Document No. 400-2200-001, contains a section relating to “Pollution Incident History.” This section suggests documenting spills as follows:

List the previous pollution incidents, the date, the material or waste spilled, approximate amount spilled, environmental damage, and action taken to prevent a recurrence.

An important criteria in determining the effectiveness of the plan and its implementation is the history of incidents. A history of no incidents suggests that the practices and procedures at the site are effective. For a site with a history of incidents, it is important to investigate the reasons for the spills and the response of the company in minimizing the potential for their recurrence.

Reporting any spill under section 78a.66 is dependent upon real and potential threat to public health and safety, environmental impact to waters of the Commonwealth, materials and volume involved, spill site location, circumstance, and immediate remedial action taken. (posted 09/26/16)

13) Does “regulated substance” include technologically enhanced naturally occurring radioactive materials (TENORM) radioactive substances?

Yes. (posted 09/26/16)