



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
- Both Conventional and Unconventional Changes
- Conventional Only Changes
- Unconventional Only Changes

# Surface Activities Rulemaking

- Proposed regulation published 12/14/2013
- 90-day public comment period
- Nine public hearings – 300+ persons testified
- Around 25,000 letters, emails, petitions, etc.
  - 1,200-1,500 unique commentators
  - 22,000 form letters, petition signatures
- 3,000 unique comments
- Separate Comment and Response Documents

# 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 (both Chapters) – 30 days public comment, no hearings.

# Substantive Changes

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

# Substantive Changes – 78a.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 – 78a.15

- Public Resources

- Increased the scope of the review from well bore 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 –78a.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 – 78a.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 – 78a.41

- Noise mitigation
  - New section
  - Requires operators to prepare and implement a site-specific noise mitigation plan for drilling, stimulation, and servicing activities
  - Requires operators to evaluate the effectiveness of noise mitigation measures
  - Gives DEP the ability to suspend operations and modify plan

# Substantive Changes – 78a.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 – 78a.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 wells

# Substantive Changes – 78a.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 (§ 78a.73)

# Substantive Changes – 78a.56

- Temporary Storage
  - Bans the use of pits at unconventional sites
  - Requires approval by DEP for installation of a modular aboveground storage structure
  - Requires notification 3 business days prior to installation of modular aboveground storage structure

# Substantive Changes – 78a.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



# Substantive Changes – 78a.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 – 78a.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 – 78a.59b

- Freshwater Impoundments
  - Specifies that requirements apply to new freshwater impoundments
  - Notice to Department of existing impoundments (location and certification)
  - Timing and substance of restoration

# Substantive Changes – 78a.59c

- Centralized Impoundments
  - Removes these sections from Chapter 78a
  - Use of centralized wastewater impoundments allowed if permitted 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 required in the closure plan

# Substantive Changes – 78a.61

- Disposal of Drill Cuttings
  - Prohibits the disposal of drill cuttings within a floodplain
  - Prohibits onsite disposal of drill cuttings from below the surface casing seat for unconventional wells without DEP approval.

# Substantive Changes – 78a.62

- Disposal of residual waste - pits
  - Provides that unconventional operators may not dispose of residual waste, including contaminated drilling cuttings in a pit
  - Allows for DEP approval

# Substantive Changes – 78a.63a

- 78a.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 – 78a.64a

- 78a.64a Containment systems and practices at well sites
  - Clarifies that subsurface containment does not constitute secondary containment



# Substantive Changes – 78a.64

- Containment - oil and condensate tanks
  - Requires owners of existing condensate tanks to provide secondary containment when the tank is replaced or repaired or within 2 years of the effective date (whichever is sooner)
  - Clarifies SPCC requirements

# Substantive Changes – 78a.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 – 78a.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 – 78a.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 – 78a.66

- Reporting and remediating spills and releases
  - Requires Act 2 cleanup process and standards
  - Establishes cleanup timeframes for spills and releases
  - Parallels Storage Tank Corrective Action Process

# Substantive Changes – 78a. 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 – 78a.69

- Water management plans
  - Reorganized the section for clarity
  - WMP requirement applies to anyone who withdraws water for use in hydrofracturing an unconventional well, not just operators
  - Allows water purveyors to meet the WMP requirement through other regulatory approvals granted by DEP
  - Contains detailed application and operational requirements, based on SRBC, for withdrawals in the Ohio and Potomac river basins

# Substantive Changes – 78a.121

- Production reporting
  - Codifies monthly production reporting (Act 173 of 2014, already in effect)
  - Requires operators to also report waste disposal or reuse monthly, including the specific facility or well site where the waste was managed



# Substantive Changes – 78a.122

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

# Substantive Changes – 78a

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



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