

# FREQUENTLY ASKED QUESTIONS

## Environmental Protection Performance Standards at Oil and Gas Well Sites

Waste Management - Disposal  
(§§ 78a.60 – 78a.63)

*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.*

### **§ 78a.60. Discharge requirements**

- 1) How do you meet the sheen requirement? Is it just visual?

Yes, the presence of sheen is a visual observation. When sheen is noticed, a sample may need to be taken to confirm the nature of the sheen before the water is allowed to be discharged. (posted 10/20/16)

- 2) What is the depth limit determined to be tophole water?

The depth limit for tophole water is a site-specific analysis and will vary from well to well. "Tophole water" is defined in section 78a.1: Water that is brought to the surface while drilling through the strata containing fresh groundwater and water that is fresh groundwater or water that is from a body of surface water. Tophole water may contain drill cuttings typical of the formation being penetrated but may not be polluted or contaminated by additives, brine, oil or man induced conditions. (posted 10/20/16)

### **§ 78a.61. Disposal of drill cuttings**

- 1) Can an operator still disperse cuttings from conductor drilling? Does section 78a.61 apply to conductor material, or is conductor material considered similar to virgin, excavated material at the site such that it can be used in the construction of the pad without restriction?

Uncontaminated drill cuttings from above the casing seat are not considered a residual waste and may be disposed of in accordance with section 78a.61. Alternate methods for onsite disposal are allowed under section 78a.61(d) but the process will need to be approved by the DEP on a *Request for Alternative Waste Approval*, form OG-71 A. (posted 10/20/16)

- 2) How should an operator determine if drill cuttings are contaminated?

Only cuttings from above the casing seat are allowed to be used and the operator should be aware of the drilling process they are using to ensure the cuttings are not contaminated. If there are any doubts about the cuttings being in contact with regulated substances, they will need to be sampled and analyzed by an independent Pennsylvania accredited laboratory prior to onsite disposal.  
(posted 10/20/16)

- 3) Does the operator need to notify the landowner for all disposals (landfilling) or land application only?

Landowner notification is only for all onsite disposals. This means onsite disposals in a pit, land application or other alternate onsite disposal method approved by DEP. (posted 10/20/16)

- 4) Section 78a.61(e) – Is the 3-day notice to Department for disposal of drill cuttings related to onsite or offsite cuttings disposal; or both? Is the 10-day notification to the landowner related to onsite or offsite cuttings disposal?

The initial 3 business days' notice to DEP prior to the disposal of drill cuttings and the 10 business days' notification to the surface landowner after completion of disposal activities is only for onsite disposal of drill cuttings. (posted 10/20/16)

- 5) Section 78a.61 – Is an operator required to comply with the “drill cuttings from above the casing seat-land application” requirements for material brought to the surface during conductor hole drilling (therefore are these requirements only for material above the surface casing seat-land application)?

All solid materials brought to the surface as a result of drilling a well are considered drill cuttings, including those brought to the surface while drilling a hole for the conductor casing and are subject to the regulations found in sections 78a.56, 78a.58, 78a.61-78a.63a. (posted 10/20/16)

- 6) If placing conductor material onsite, would operator be required to submit the 3-day notice to DEP and 10-day landowner notice?

Yes. Also, If the operator is proposing to dispose of the materials in any manner other than those prescribed in section 78a.61, the operator would need to initially submit an OG-71A form for approval of the proposed alternate method for the onsite use of the material at the first well site and an OG-71B form for the implementation of the same authorized method at any additional well sites.  
(posted 10/20/16)

### **§ 78a.62. Disposal of residual waste – pits AND**

### **§ 78a.63. Disposal of residual waste—land application**

- 1) Who administers the residual waste application and permit for drill cuttings?

The DEP Office of Oil and Gas Management will administer residual waste disposal permits under sections 78a.61 through 78a.63. (posted 10/20/16)

- 2) Does a waste disposal permit for the disposal of drill cuttings below the casing seat require that the operator file an OG-71? If so, it is not mentioned in the instructions. What will the approval process be?

No, an OG-71 will not be used for the disposal of residual waste, including contaminated drill cuttings at an unconventional well site. An operator needs to apply for an onsite residual waste management disposal permit administered by the DEP Office of Oil and Gas Management. (posted 10/20/16)

- 3) Is DEP Oil and Gas regulating the burial of drill cuttings from below the casing seat? Under the regulations, it says that approval is issued under this chapter but it sounded that an operator would seek approval through the division of residual waste? Please clarify.

The DEP Office of Oil and Gas Management will be regulating the burial and land application of drill cuttings below the casing seat. It will apply the same requirements for residual waste disposal as that activity is authorized under the Solid Waste Management Act, Act 97 of 1980. (posted 10/20/16)

- 4) Is only landowner notification and not landowner approval required for onsite disposal?

Correct. (posted 10/20/16)

### **§ 78a.63a. Alternative waste management**

- 1) In OG-71A, it appears that the form is only needed if the liner is shredded and disposed of? If the liner is not being shredded, but simply cleaned before moving to another site, is the form needed? If it is moved and reused, is the form needed? Is an OG-71A form needed to "handle and wash" to move a liner to another well site for reuse?

Yes, an OG-71 A or B form is needed for the onsite "processing" of liners. Handling and washing liners meets the definition of "processing" as defined in section 78a.1, which references section 103 of the Solid Waste Management Act (35 P.S. § 6018.103). Therefore, an OG-71A form will need to be submitted to DEP for approval of the proposed processing method. Subsequently an OG-71B form may be used if the operator wants to use the approved process at other locations. Also, in order for the liner material to be recycled or reused; transported as a non-waste material; be stored at a facility that is not permitted as a residual waste facility and for it not to need to be stored/managed as a residual waste at every point in between, the operator will also need the Permit-by-rule/De-wasting determination by the DEP Waste Management Program, even if the onsite processing is covered under OG-71. (posted 10/20/16)

- 2) Can you provide a better explanation and example of "modular aboveground storage structures?"

The term “modular aboveground storage structure” is defined in section 78a.1 as “An aboveground structure used to store wastewater that requires final assembly at a well site to function and which can be disassembled and moved to another well site after use.” An example is a tank that has interlocking ribs with a liner over it or interlocking panels with rings to hold it together. These structures are assembled onsite and then taken apart to be reassembled and used at another site. (posted 10/20/16)

- 3) Will the violations on the OG-71 form prohibit an applicant from receiving approval?

DEP will take into consideration any violations associated with specific alternate waste management practices approval while reviewing the OG-71B form seeking continued use of that approved practice at other well sites. DEP will expect that any open violations associated with that specific approved alternate waste management practice be addressed prior to the operator employing the same practice at other well sites. The nature and frequency of past violations will also be part of DEP’s decision-making process on whether an operator should be allowed to continue to be able to engage in that specific previously approved alternate waste management practice. The violations review will focus solely on the violations associated with the approved alternate waste management practice under review and not operator or operations wide. (posted 10/20/16)

- 4) Is offsite drill cuttings disposal an alternative waste disposal practice? Is onsite solidification of drill cuttings that will be disposed of offsite subject to section 78a.63a?

The term “alternative waste management” refers to any waste management practices *on a well site* that is done in any manner other than provided in sections 78a.56 – 78a.63. While landfilling drill cuttings is not an alternate waste management practice, the “processing” of drill cuttings *on a well site* is considered an alternate waste management practice. Therefore, an OG-71A will need to be submitted to DEP for approval of the proposed processing method. (posted 10/20/16)

- 5) Please further explain the purpose of the OG-71B form.

The purpose of the OG-71B form is to allow for an operator to request continued use of an alternate waste management practice that has already been authorized by DEP at another well site. This will streamline the OG-71 approval process since all subsequent approvals for the same alternate waste management practice will not need a technical review, provided that the operator agrees to follow the same alternate waste management practices associated with DEP’s authorization number provided on the form. (posted 10/20/16)

- 6) When will the Department post the approved list of solidifiers and approved structures?

As solidifiers and aboveground modular storage structures are approved after October 8, 2016, they will be added to the Department’s website. (posted 10/20/16)

- 7) When referring to solidifiers, does the Department mean companies or material/products?

The materials/products used for solidifying drill cuttings. (posted 10/20/16)

- 8) Can provide specific examples of regulated substances?

The term "regulated substance" is defined in section 103 of the Land Recycling and Environmental Remediation Standards Act (35 P.S. § 6026.103) and includes: Hazardous substances and contaminants regulated under the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act, and substances covered by the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, the act of July 13, 1988 (P.L.525, No.93), referred to as the Infectious and Chemotherapeutic Waste Law, and the act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act. (posted 10/20/16)

- 9) Will we need an OG-71 to mix off cuttings on pad to be transported to a landfill?

Yes, since this is "processing" a residual waste on a well site, which is an alternate waste management practice being conducted on a well site. (posted 10/20/16)

- 10) Can you provide a specific description and/or definition for "processing drill cuttings?"

The definition of processing is defined in section 103 of the Solid Waste Management Act (*see above*). Solidification, centrifuging and shaking drill cuttings are examples of processing drill cuttings. (posted 10/20/16)

- 11) Can you provide more clarification on the distinction between "solidifying" drill cuttings vs "bulking" drill cuttings, where I think you said that solidifying is processing but bulking is not.

DEP has decided to stop making the distinction between solidifying and bulking because they *both* meet the definition of processing waste. DEP requires the submission of an OG-71A or B form when an operator intends to process waste on a well pad. DEP will maintain a list of approved solidifiers on its web site. The operator does not need to request approval from DEP for use of approved solidifiers. An OG-71 will not be needed to use approved solidifiers. (posted 10/20/16)

- 12) What does beneficially used mean?

The term "beneficial use" is defined in 25 Pa. Code § 287.1 as: Use or reuse of residual waste or residual material derived from residual waste for commercial, industrial or governmental purposes, if the use does not harm or threaten public health, safety, welfare or the environment, or the use or reuse of processed

municipal waste for any purpose, if the use does not harm or threaten public health, safety, welfare or the environment. (posted 10/20/16)