DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF OIL AND GAS MANAGEMENT

DOCUMENT NUMBER: 550-2100-003

TITLE: Oil and Gas Well Drilling Permits and Related Approvals

EFFECTIVE DATE: October 31, 1998

AUTHORITY: The Oil and Gas Act (P.L. 1140, No. 223) (58 P.S. Section 601.101 et seq.)
Coal and Gas Resource Coordination Act (P.L. 1069, No. 214)
(58 P.S. Section 501.1 et seq.)
Oil and Gas Conservation Law (P.L. 825, No. 359)
(58 P.S. Section 401.1 et seq.)
The Clean Streams Law (P.L. 1987, No. 394) (35 P.S. Section 691.1 et seq.)
Solid Waste Management Act (P.L. 380, No. 97)
(35 P.S. Section 6018.101 et seq.)
The Administrative Code (P.L. 177, No. 175) (71 P.S. Section 510-1 et seq.)
25 Pa. Code Chapters 78, 79, 91, 95, 97, 101, 102, 105, 106, 260, 261, 287, 288, 289, 291, 293, 299

POLICY: DEP will review all applications for oil and gas well drilling permits for compliance with applicable statutes and regulations. The review process will be conducted according to policies in this guidance document.

PURPOSE: This guidance document provides the Department's interpretation of applicable laws and regulations where necessary detail is absent from the law or regulation.

APPLICABILITY: These policies apply as guidance for decisions by DEP's oil and gas management program when reviewing applications for well drilling permits and related approvals.

DISCLAIMER: The policies and procedures outlined in this guidance document are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not an adjudication or regulation. There is no intent on the part of the Department to give these rules that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

LENGTH: 7 pages

LOCATION: Volume 11, Tab 01

Oil and Gas Well Drilling Permits and Related Approvals

GENERAL POLICIES:

All applications for well permits and all supporting documents will be reviewed for completeness, accuracy, and adherence with applicable statutes and regulations.

Permit applications must be submitted on forms provided by the Department, or on computer-generated facsimiles of Department forms.

Oil and gas well drilling permit applications will be acted on according to the "DEP Money-Back Guarantee Permit Review Program." Explanation of this policy is available as a DEP Fact Sheet (5500-FS-DEP1835), or DEP Technical Guidance Document (# 013-2000-001). Both are available on DEP's World Wide Web site at "http://www.dep.state.pa.us".

Payments accompanying permit applications must be made by check or money order, payable to the "Commonwealth of Pennsylvania." Personal and business checks are acceptable. One check may be used for all applications submitted at the same time.

Applications for oil and gas wells are exempt from the requirements of the Pennsylvania History Code if the disturbed area will be less than 10 acres. If any project will result in 10 acres or more of disturbed area, it is subject to requirements of the History Code. See DEP guidance document #012-0700-001, Implementation of the History Code: Policy and Procedures for Applicants for DEP Permits and Plan Approvals.

Signature Of Applicant:

The following specifies who may sign a permit application on behalf of the applicant.

If the well operator is an individual, either doing business in his or her own name or under a fictitious name, he must sign his own name. Individuals in joint ownership must authorize one person to sign on behalf of all and submit documentation of the authorization, or all parties must sign.

An unincorporated business entity using a fictitious (business) name must register the name with the Corporation Bureau of the Pennsylvania Department of State. Only an owner or an individual duly authorized by the owners of such a business may sign permit applications.

If the well operator is a partnership, the application must be signed by all partners or an authorized general partner.

If the well operator is a corporation, the application must be signed by an authorized corporate officer. A well operator may empower another person, by specific power of attorney, to sign permit applications on behalf of the operator.

APPLICATION REVIEW:

Errors and Omissions:

If any necessary documents are inadequate or do not accompany the application, the application will be returned to the applicant, or held awaiting corrections. To reduce turnaround time for applicants, oil and gas permit review staff may notify an applicant of minor errors and omissions by phone or fax. If a phone call or fax to the applicant does not resolve the problem, a deficiency notice will be sent to the applicant. An application with a significant error or omission will be returned to the applicant.

The DEP Money-Back Guarantee Permit Review Program continues to apply to a permit application returned because of administrative or technical deficiency. The applicant must meet response deadlines to maintain the guarantee for this permit application.

Names and Signatures:

The operator's name must be exactly the same on all application forms, attachments and bond documents. Signatures must match the typed or printed names. The person signing the application must be duly authorized to represent the applicant.

Location on USGS Topographic Map:

The applicant must provide accurate current information on the "Well Location Plat" (form 5500-PM-OG0002), which identifies the county, municipality, and latitude and longitude of the proposed well location on the appropriate section of a USGS
7.5-minute topographic quadrangle map. In addition to the location mark, both latitude and longitude must be provided as offset distances from the 2.5-minute lines, and as true latitude and true longitude, both expressed in degrees, minutes, seconds, and decimal fraction of a second. Precision of the reported figures should be commensurate with the precision of the surveying and mapping methods used to prepare the location plat.

Coal Area/Noncoal Area Well:

Based on definitions of "workable coal seam", "coal mine", and "coal area" provided in the Oil and Gas Act, the Coal and Gas Resources Coordination Act, and 25 Pa. Code Section 78.1, gas wells are subject to spacing, distance, and casing requirements under these laws where the location:

- Overlays a coal seam, mined or unmined, at least 28 inches thick with at least 100 feet of overburden; or

- Is inside of or within 1,000 feet of the boundary of the area covered by a current Coal Mining Activity Permit issued by the Commonwealth of Pennsylvania, so long as the mine has not been closed and sealed in accordance with
  25 Pa. Code § 89.83; or

- Is in an area for which an underground coal mine permit application has been submitted to DEP and has not yet been issued nor denied.

Information might be available to the applicant which shows that a coal seam 28 inches or thicker with at least 100 feet of overburden is, however, unmineable for a variety of reasons. The applicant must submit information to support such a "noncoal" declaration.

An applicant declaring a noncoal location does not have to submit supporting documentation if the proposed well location is in a county where there are no workable coals (e.g. McKean, Warren, Erie, and others).

If the applicant indicates that the proposed well location is not in a coal area, but DEP believes it may be a coal area, DEP will notify the applicant that more information is needed, and allow the applicant to provide supporting documentation or to withdraw the application. Where the coal seam delination or thickness is indeterminate in published resource references, other information submitted by the applicant will be reveiwed on a case by case basis.

Potential Conflicting Locations of Coal Area Well Permits:

The Department may issue drilling permits for different wells that would conflict with spacing requirements if they all were to be drilled. In this situation, when drilling begins on the first well the other permits will automatically become invalid. All permittees involved in such a situation will be advised that the first well spudded will be the only valid permit.

Request for Exception From Distance Requirements:

Exception from well spacing requirements of coal area wells is addressed in Section 7(b) and (c) of the Coal and Gas Resources Coordination Act. Conditions for an exception from the distance restriction of 330 feet from the nearest tract boundary are specified in Section 7(d).

A well permit application which requests an exception to the 1000-foot spacing requirement can only be issued if the application is accompanied by a valid exception request and a signed agreement between the applicant and the owner of each workable coal seam underlying the proposed location.

To qualify for an exception to the 330-foot distance requirement, the tract must be large enough so that a well location can fit within 330 feet from all of the tract's boundaries. The exception may then be granted to meet other requirements of the Oil and Gas Act.

Distance From Spring, Stream, Or Body Of Water, Or Wetland:

If any portion of the proposed well site other than the access road is less than 100 feet from a stream, spring, body of water, or a wetland, then a request for waiver of this distance requirement is required with the permit application.

The application for waiver must be made on DEP form 5500-PM-OG0057, "Request For Waiver From Distance Requirement From Springs, Streams, Body of Water or Wetland." The applicant must also submit a copy of the erosion and sedimentation control plan for the site.

If the distance between the boundary of the site and the stream, spring, body of water, or wetland is questionable because of the scale or accuracy of supporting maps, the applicant must plot the water or wetland and the boundary of the well site on the plat, and show its course and distance from the wellhead.

Distance From Building Or Water Supply:

The well location plat must show the buildings or water supplies within 200 feet of the proposed well, and the course and distance from the proposed well to the building or water supply. The owner of a building or water supply within 200 feet must indicate that he or she is, in fact, the owner thereof, and gives permission to drill within 200 feet of the building or water supply. Written consent from the owner must be explicit. The owner's signature in the appropriate space on page 2 of the application is sufficient to document "written consent." If written consent from the owner is not included with the permit application, a "Request for Variance" (form 5500-PM-OG0058) must be attached.

Review For Impact Of Proposed Well Location On Public Resources:

If a conflict between the proposed well location and a public resource described in the Oil and Gas Act *(see 58 P.S. Section 601.205(c))* is discovered during permit review, DEP will notify the applicant and the agency responsible for that resource. DEP will continue processing the permit application; but may hold it for up to two weeks, not exceeding the review period under DEP policy. This period will allow the affected agency and the applicant to negotiate the location or procedures, but will not preclude the Department's issuing the permit within the time frames established by law and by DEP's Money-Back Guarantee Permit Review Program.

Pennsylvania Natural Diversity Inventory (PNDI):

DEP compares the location of every well permit application to the PNDI to determine if the location is within an area of a protected species. Special conditions may be put on a permit to mitigate impacts on a case by case basis. An applicant may request DEP to compare a proposed location to the PNDI before submitting a permit application. If the PNDI returns a "hit," the permit review process continues as described for public resources above.

Proof of Notification To Other Parties:

Proof of notification to the parties required to be notified must accompany the permit application. Notification mailings must include a copy of pages 1 and 2 of the "Permit Application For Drilling Or Altering A Well" (form 5500-PM-OG0001*)* and the "Well Location Plat" (form 5500-PM-OG0002). The notifications to the surface landowner and listed water supply owners must include a copy of the DEP notice "Landowner Notification Of Well Drilling And Alterations—Water Supply Protection" (form 5500-FM-OG0052).

The permit application must list the names and addresses, and note their interests. The applicant must provide proof that notification was made by certified mail, or obtain written consent by signature of the listed party on page 2 of the application. Written consent may be by separate letter. Photocopies of statements or letters of approval of the well location by notified parties are acceptable.

If a notification is refused or cannot be delivered, the operator must submit a copy of the certified mail receipt,and the envelope showing that delivery was attempted, and an affidavit attesting that notification was attempted.

Consent Signatures on Notifications Page:

Signers for a corporation, partnership or fictitious-named business on page 2 of the permit application, or on a letter of approval or consent, must meet the signature requirements for a permit application.

If the applicant is the surface owner, the applicant's name must be listed and signed as the surface owner on page 2 of the application form.

OBJECTION PERIODS:

Absent written consent from each party who has the right to object, the earliest date that DEP may issue a permit is the 16th day after the latest date of delivery shown on the certified mail receipts. If the last day of the objection period falls on a holiday or weekend, the objection period is extended to the next business day.

Proposed Well Location in Underground Mine -- Objection by Commonwealth of Pa.

DEP's Bureau of Deep Mine Safety will object to any well proposed to be drilled in a mined area or gob area of an active mine covered by a currently valid Coal Mining Activity Permit issued by the Commonwealth. DEP's Bureau of Deep Mine Safety will be notified of the application by the Oil and Gas Program. This objection would likely lead to a conference with the well permit applicant, DEP, and the coal mine operator to negotiate alternatives to the proposed well location.

APPROVAL OF ALTERNATE METHODS OR MATERIALS IN WELL DRILLING OR COMPLETION:

All requests for approval of alternate methods or materials to be used in well drilling or completion must be documented on form 5500-PM-OG0024, "Proposed Alternate Method or Material for Casing, Plugging, Venting, or Equipping a Well."

Where approval authority has been delegated to an oil and gas inspector and verbal approval of an alternate method is given in the field, the inspector must document this approval in writing within 10 days.

SPECIAL PERMIT CONDITIONS FOR DRILLING AND COMPLETION METHODS:

The Department has the authority to impose special conditions on a well permit, on a case-by-case basis, or for any well to be located in a area of special caution or to be drilled into a formation of special concern.

One example is the special condition applied to permits for drilling and completion of Medina wells in portions of Concord and Wayne Townships in Erie County and Columbus, Freehold, Spring Creek and Sugar Grove Townships in Warren County.

In any permit situation where DEP imposes special conditions, the permittee remains responsible for any injury or environmental or property damage resulting from drilling, completing, or operating the well. The operator may wish to take additional precautions beyond the special conditions imposed by the well drilling permit.