

Subchapter B. PERMITS, TRANSFERS AND OBJECTIONS

PERMITS AND TRANSFERS

Sec.

- 78.11. Permit requirements.
- 78.12. Compliance with permit.
- 78.13. Permit transfers.
- 78.14. Transfer of well ownership or change of address.
- 78.15. Application requirements.
- 78.16. Accelerated permit review.
- 78.17. Permit renewal.
- 78.18. Disposal and enhanced recovery well permits.

OBJECTIONS

- 78.21. Opportunity for objections and conferences; surface landowners.
- 78.22. Objections by owner or operator of coal mine.
- 78.23. Time for filing objections by owner or operator of coal mine.
- 78.24. Information to be provided with objections by owner or operator of coal mine.
- 78.25. Conferences—general.
- 78.26. Agreement at conference.
- 78.27. Continuation of conference.
- 78.28. Final action if objections do not proceed to panel.

- 78.29. Composition of panel.
- 78.30. Jurisdiction of panel.
- 78.31. Scheduling of meeting by the panel.
- 78.32. Recommendation by the panel.
- 78.33. Effect of panel on time for permit issuance.

PERMITS AND TRANSFERS

§ 78.11. Permit requirements.

(a) No person may drill or alter a well unless that person has first obtained a permit from the Department.

(b) No person may operate a well unless one of the following conditions has been met:

- (1) The person has obtained a permit under the act.
- (2) The person has registered the well under the act.
- (3) The well was in operation on April 18, 1985, under a permit that was obtained under the Gas Operations Well-Drilling Petroleum and Coal Mining Act (52 P. S. § § 2104, 2208, 2601 and 2602) (Repealed).

Source

The provisions of this § 78.11 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.18 (relating to disposal and enhanced recovery well permits).

§ 78.12. Compliance with permit.

A person may not drill, alter or operate an oil or gas well except in accordance with a permit or registration issued under the act and in compliance with the terms and conditions of the permit, this chapter and

the statutes under which it was promulgated. A copy of the permit shall be kept at the well site during drilling or alteration of a well.

Source

The provisions of this § 78.12 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229; amended December 16, 1994, effective December 17, 1994, 24 Pa.B. 6284. Immediately preceding text appears at serial page (138804).

§ 78.13. Permit transfers.

(a) No transfer, assignment or sale of rights granted under a permit or registration may be made without prior written approval of the Department. Permit transfers may be denied for the reasons set forth in section 201(e)(4) and (5) of the act (58 P. S. § 601.201(e)(4) and (5)).

(b) The Department may require the transferee to fulfill the drilling, plugging, well site restoration, water supply replacement and other requirements of the act, regardless of whether the transferor commenced the activity and regardless of whether the transferor failed to properly perform the transferor's obligations under the act.

Source

The provisions of this § 78.13 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

§ 78.14. Transfer of well ownership or change of address.

(a) Within 30 days after the sale, assignment, transfer, conveyance or exchange of a well, the new owner or operator shall notify the Department, in writing, of the transfer of ownership.

(b) The notice shall include the following information:

(1) The names, addresses and telephone numbers of the former and new owner, and the agent if applicable.

(2) The well permit or registration number.

- (3) The effective date of the transfer of ownership.
 - (4) An application for a well permit transfer if there is a change in the well operator.
- (c) The permittee shall notify the Department of a change in address or name within 30 days of the change.

Source

The provisions of this § 78.14 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229; amended March 6, 1998, effective March 7, 1998, 28 Pa.B. 1234. Immediately preceding text appears at serial pages (193955) to (193956).

§ 78.15. Application requirements.

(a) An application for a well permit shall be submitted on forms furnished by the Department and contain the information required by the Department to evaluate the application.

(b) The permit application will not be considered complete until the applicant submits a complete and accurate plat, an approvable bond or other means of complying with section 215 of the act (58 P. S. § 601.215), the fee, proof of notification, necessary requests for variance or waivers or other documents required to be furnished by law or the Department. The person named in the permit shall be the same person named in the bond or other security.

Source

The provisions of this § 78.15 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

§ 78.16. Accelerated permit review.

In cases of hardship, an operator may request an accelerated review of a well permit application. For the purposes of this section, hardship includes cases where immediate action is necessary to protect public health or safety, to control pollution or to effect other environmental or safety

measures, and extraordinary circumstances beyond the control of the operator. Permits issued shall be consistent with the requirements of the act.

Source

The provisions of this § 78.16 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

§ 78.17. Permit renewal.

An operator may request a 1-year renewal of a well permit. The request shall be accompanied by a permit fee, the surcharge required in section 601 of the act (58 P. S. § 601.601), and an affidavit affirming that the information on the original application is still accurate and complete, that the well location restrictions are still met and that the surface owners, coal owners and operators, gas storage operators, where the permit renewal is for a proposed well location within an underground gas storage reservoir or the reservoir protective area, and water supply owners within 1,000 feet have been notified of this request for renewal. The request shall be received by the Department at least 15 calendar days prior to the expiration of the original permit.

Source

The provisions of this § 78.17 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229; amended March 30, 2001, effective March 31, 2001, 31 Pa.B. 1736. Immediately preceding text appears at serial page (263008).

§ 78.18. Disposal and enhanced recovery well permits.

(a) A person may not drill a disposal or enhanced recovery well or alter an existing well to be a disposal or enhanced recovery well unless the person:

- (1) Obtains a well permit under § 78.11 (relating to permit requirements).
- (2) Submits with the well permit application a copy of the well permit,

approved permit application and required related documentation submitted for the disposal or enhanced recovery well to the EPA under 40 CFR Part 146 (relating to underground injection control program).

(3) Submits a copy of a control and disposal plan for the disposal or enhanced recovery well and related facilities that meets the requirements of § 91.34 (relating to activities utilizing pollutants).

(4) Submits a copy of an erosion and sedimentation plan for the disposal or enhanced recovery well site that meets the requirements of Chapter 102 and § 78.53 (relating to erosion and sediment control; and erosion and sedimentation control).

(b) By December 18, 1995, an operator of disposal or enhanced recovery wells which were operating before December 18, 1995, shall submit to the Department a list of the operator's disposal or enhanced recovery wells including:

(1) The Department's permit or registration number for each well on this list.

(2) The corresponding permit number issued to each well on this list by the EPA.

(c) A person who operates multiple well projects may submit one copy of the documents required under subsection (a) if the documents are applicable to the entire project.

Source

The provisions of this § 78.18 adopted December 16, 1994, effective December 17, 1994, 24 Pa.B. 6284.

OBJECTIONS

§ 78.21. Opportunity for objections and conferences; surface landowners.

(a) The surface landowner of the tract on which the proposed well is

located may object to the well location based on the assertion that the well location violates section 205 of the act (58 P. S. § 601.205) or on the basis that the information in the application is untrue in a material respect, and request a conference under section 501 of the act (58 P. S. § 601.501).

(b) The objection and request for a conference shall be filed in writing with the Department within 15 calendar days of receipt of the plat by the surface landowner. The objection shall contain the following:

- (1) The name, address and telephone number of the person submitting the objection.
- (2) The name of the well operator, and the name and number of the proposed well.
- (3) A statement of the objection and a request for a conference if a conference is being requested.

Source

The provisions of this § 78.21 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

§ 78.22. Objections by owner or operator of coal mine.

The owner or operator of an operating coal mine or a coal mine already projected and platted, but not yet being operated, may file written objections to a proposed well location with the Department if the following apply:

- (1) The well, when drilled, would penetrate within the outside coal boundaries of such a mine or within 1,000 feet beyond the boundaries.
- (2) In the opinion of the owner or operator, the well will unduly interfere with or endanger the mine or persons working in the mine.

Source

The provisions of this § 78.22 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

§ 78.23. Time for filing objections by owner or operator of coal mine.

(a) A coal mine owner or operator who objects to a proposed gas well for financial considerations, and wishes to go before a panel with an objection over which the panel has jurisdiction, shall file objections to a proposed gas well within 10-calendar days of the receipt of the plat.

(b) A coal mine owner or operator who does not wish to go before a panel with an objection over which the panel has jurisdiction, or who is not raising financial objections to the proposed gas well, shall file objections to a proposed oil or gas well within 15 calendar days of the receipt of the plat.

Source

The provisions of this § 78.23 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

§ 78.24. Information to be provided with objections by owner or operator of coal mine.

(a) The objections shall be filed in writing and shall contain the following information, if applicable:

(1) The name, address and telephone number of the person filing the objection, and the date on which a copy of the plat was received.

(2) The name and address of the applicant for the well permit and the name and number of the well.

(3) The type of well—for example, oil, gas, injection and the like—that is the subject of the objections.

(4) The location of the well in relation to the coal owned or operated by the objecting party.

(5) The area through which the well will be drilled, specifically:

(i) Whether the well will be drilled through a mining area that is projected, platted or permitted, but not yet being operated.

(ii) Whether the well will be drilled through a perimeter area.

(iii) Whether the well will penetrate a workable coal seam.

(iv) Whether the well will be located above an active mine.

(v) Whether the well will penetrate an operating mine.

(6) A copy of the plans, maps or projections of the mining area underlying the proposed gas well showing the location of the proposed well.

(7) Whether the owner or operator believes that the well will pose undue interference or endangerment to the mine, and the nature of the threat.

(8) The financial impact posed by the well, to which objections may be heard by a panel under § 78.30 (relating to jurisdiction of panel).

(9) Whether the well will violate the act, the Coal and Gas Resource Coordination Act (58 P. S. § § 501—518) or another applicable law administered by the Department.

(b) The objections shall include an alternate location, if possible, on the tract of the well operator that would overcome the objections or at which the interference would be minimized. The Department is not bound to consider alternate locations that are proposed after the close of the first conference.

Source

The provisions of this § 78.24 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

§ 78.25. Conferences—general.

(a) If a timely objection to the location is filed by the coal owner or operator under §§ 78.22—78.24 (relating to objections by owner or operator of coal mine; time for filing objections by owner or operator of coal mine; and information to be provided with objections by owner or operator of coal mine), or if objections are made by the Department, the Department will fix a time and place for a conference within 10 calendar days from the date of service of the objections upon the well operator, unless all parties agree to an extension of time for the conference.

(b) The Department may decide not to hold a conference if it determines that the objections are not valid or if the objection is resolved.

(c) The Department will attempt to schedule the conference as late as possible in the 10-day period if the well is subject to the Coal and Gas Resource Coordination Act (58 P. S. §§ 501—518). The Department will not schedule a conference under section 202 of the act (58 P. S. § 601.202) if it receives written notice that the gas well operator or the coal mine owner or operator has made a written request to convene a panel to resolve objections to the location of a gas well over which a panel has jurisdiction in accordance with §§ 78.29—78.33.

(d) The conference shall be governed by §§ 78.26—78.28 (relating to agreement at conference; continuation of conference; and final action if objections do not proceed to panel).

(e) The Department or a person having a direct interest in the subject matter of the act may request a conference any time to attempt to resolve by mutual agreement a matter arising under the act.

Source

The provisions of this § 78.25 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.30 (relating to jurisdiction of panel).

§ 78.26. Agreement at conference.

(a) If the parties reach an agreement at the conference, and if the Department approves the location, the Department will cause the agreement to be reduced to writing.

(b) If the Department does not reject the agreement within 10 calendar days after the agreement is reduced to writing, the agreement becomes effective.

(c) An agreement reached at the conference shall be consistent with the requirements of the act and applicable statutes. An agreement that is not in accordance with the act, the Coal and Gas Resource Coordination Act (58 P. S. § § 501—518) and applicable law shall be deemed to be null and void.

Source

The provisions of this § 78.26 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

§ 78.27. Continuation of conference.

The Department may continue the conference for good cause. Good cause includes one or more of the following:

- (1) The need for supplemental data, maps or surveys.

(2) The need to verify that the agreement or a proposed well location is consistent with the requirements of the act, the Coal and Gas Resource Coordination Act (58 P.S. § § 501—518) and other applicable requirements.

(3) The need for the presence of essential witnesses whose unavailability is due to good cause.

(4) The need for further investigation into the allegations that are the basis for the objections.

(5) Agreement by all parties that a continuance is beneficial to the resolution of the objections.

Source

The provisions of this § 78.27 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

§ 78.28. Final action if objections do not proceed to panel.

If the panel does not have jurisdiction of the objections, under § 78.30 (relating to jurisdiction of panel), or if the panel has jurisdiction but the parties choose not to proceed to a panel, the Department may proceed to issue or deny the permit, under sections 201 and 202 of the act (58 P. S. § § 601.201 and 601.202). No permit will be issued for a well at a location that in the opinion of the Department would endanger the safety of persons working in a coal mine.

Source

The provisions of this § 78.28 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

§ 78.29. Composition of panel.

(a) If the gas well operator and the objecting coal owner or operator are unable to agree upon a drilling location, and the gas well is subject to the jurisdiction of a panel under § 78.30 (relating to jurisdiction of panel), the well operator or a coal owner or operator may convene a panel.

(b) The panel shall consist of one person selected by the objecting coal owners or operators, a second person selected by the permit applicant and a third selected by these two.

(c) The parties shall submit their positions to the panel within such time as the panel prescribes, in accordance with section 12 of the Coal and Gas Resource Coordination Act (58 P. S. § 512).

Source

The provisions of this § 78.29 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

§ 78.30. Jurisdiction of panel.

(a) A panel shall hear objections by the owner or operator of the coal mining area only if the proposed gas well is not subject to the Oil and Gas Conservation Law (58 P. S. § § 401—419) and one of the following applies:

(1) The well will be drilled through an area that is projected and permitted, but not yet being operated.

(2) The well will be drilled through a perimeter area.

(3) The well will penetrate a workable coal seam, and will be located above an active mine, but will not penetrate an operating mine.

(b) The panel shall hear only objections that were filed by the owner or operator of the mining areas set forth in subsection (a).

(c) If after a conference in accordance with § 78.25 (relating to conferences—general), the Department has unresolved objections, the panel does not have jurisdiction to convene or to hear objections.

Source

The provisions of this § 78.30 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.24 (relating to information to be provided with objections by owner or operator of coal mine); 25 Pa. Code § 78.25 (relating to conferences—general); 25 Pa. Code § 78.28 (relating to final action if objections do not proceed to panel); and 25 Pa. Code § 78.29 (relating to composition of panel).

§ 78.31. Scheduling of meeting by the panel.

The panel shall convene a meeting within 10-calendar days of the panel chairperson's receipt of a written request to do so by the permit applicant or by the objecting coal owner or operator.

Source

The provisions of this § 78.31 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general); and 25 Pa. Code § 78.32 (relating to recommendation by the panel).

§ 78.32. Recommendation by the panel.

(a) The panel shall make its recommendation of where the proposed well should be located, based upon the financial considerations of the parties.

(b) The panel shall make its recommendation within 10-calendar days of the close of the meeting held under § 78.31 (relating to scheduling of meeting by the panel).

(c) If the Department determines that the first recommended location endangers a mine or the public, it will reject the location and notify the panel to make another recommendation. The panel shall submit another recommended location to the Department within 10 calendar days of the Department's notification.

(d) If the Department determines that the second recommended location endangers a mine or the public, the Department may designate a location where it has determined that the well will not unduly interfere with or endanger the mine or the public and issue a permit for the well at that designated location. However, if the Department has not designated such a location, and if the Department determines that a well drilled at any proposed or panel-recommended alternate location will unduly interfere with or endanger the mine or the public, it will deny the permit.

(e) No permit will be issued for a well at a location that would, in the opinion of the Department, endanger the safety of persons working in a coal mine.

Source

The provisions of this § 78.32 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

§ 78.33. Effect of panel on time for permit issuance.

003273

The period of time during which the objections are being considered by a full panel is not included in the 45-day period for the issuance or denial of a permit under section 201(e) of the act (58 P. S. § 601.201(e)).

Source

The provisions of this § 78.33 adopted July 28, 1989, effective July 29, 1989, 19 Pa.B. 3229.

Cross References

This section cited in 25 Pa. Code § 78.25 (relating to conferences—general).

No part of the information on this site may be reproduced for profit or sold for profit.

This material has been drawn directly from the official Pennsylvania Code full text database. Due to the limitations of HTML or differences in display capabilities of different browsers, this version may differ slightly from the official printed version.