

# **The Pennsylvania Oil and Gas Conservation Law: A Summary of the Statutory Provisions 58 P.S. §§ 401-419**

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The Oil and Gas Conservation Law (OGC Law) is one of the primary laws that regulate the extraction of natural gas in Pennsylvania. The OGC Law has been summarized in a section-by-section manner in this research publication, which provides an overview of the issues regulated by the OGC Law. To obtain detailed information on the individual statutory sections, the full text of the OGC Law should be reviewed.

## Declaration of Policy

The OGC Law reflects a policy “to foster, encourage, and promote the development, production, and utilization” of Pennsylvania’s oil and natural gas resources. Development activities should occur in a manner to prevent the waste of oil and natural gas. Oil and natural gas operations should be regulated to ensure that “the Commonwealth shall realize and enjoy the maximum benefit of these natural resources.” Since strata above the Onondaga horizon have been extensively developed since 1850, it would be impractical to include shallow wells within the regulations of the OGC Law.

## Section 1: Short Title (58 P.S. § 401)

This statute shall be known as the “Oil and Gas Conservation Law.”

## Section 2: Definitions (58 P.S. § 402)

This section provides statutory definitions for various oil and gas terms used in the OGC Law. Definitions of note include the following:

- “Commission” refers to the Oil and Gas Conservation Commission. The powers granted to this commission were subsequently transferred to the Department of Environmental Protection (DEP) in 1970. Thus, references to “commission” in the OGC Law are actually references to DEP.
- “Division” refers to the Oil and Gas Division of the Department of Mines and Mineral Industries. Following transfer and reorganization, this entity is now known as the Bureau of Oil and Gas Management within DEP.

### Section 3: Applicability; Exclusions; Construction (58 P.S. § 403)

As a general rule, the OGC Law applies to all land within Pennsylvania, including land owned by the Commonwealth. DEP shall have authority to enforce the OGC Law. The following categories of wells are excluded from the OGC Law:

- Those that “do not penetrate the Onondaga horizon,”
- Where the Onondaga horizon is closer than 3,800 feet from the surface, those that are not deeper than 3,800 feet;
- Those that were drilled prior to the effective date of the OGC Law, but such wells may be considered in spacing and pooling orders; and
- Those that are drilled to inject gas into or extract gas from a storage reservoir.

### Section 4: Waste Prohibited (58 P.S. § 404)

“Waste of oil and gas is prohibited.” Waste is defined by the OGC Law to include both physical waste and drilling more wells than are necessary. Physical waste includes allowing gas, oil, or water to migrate to a different stratum resulting in the loss of recoverable oil or gas; “drowning” a stratum that is capable of producing oil or gas; unnecessary loss of oil or gas at the surface; and inefficient dissipation of energy from the reservoir.

### Section 5: Powers and Duties of the Commission (58 P.S. § 405)

DEP is charged with the administration and enforcement of the OGC Law, and thus, can investigate and inspect records and facilities as necessary. In addition to the grant of general authority, DEP has specific authority:

- To require that wells be identified with ownership information on-site;
- To require that certain production records are maintained and filed;
- To require that wells be operated in a manner to prevent “the escape of oil or gas” and the “detrimental intrusion of water;”
- To require that wells be operated safely; and
- “[T]o enter spacing and pooling orders.”

### Section 6: Drilling Permits (58 P.S. § 406)

Before drilling into, or deeper than, the Onondaga horizon, the operator must obtain a permit from DEP. Upon submission of the permit application, DEP shall grant the permit unless the well location conflicts with an existing spacing or pooling order. If a spacing or pooling order is not in place, the well must be located a minimum of 330 feet from the nearest outside boundary line of the leased property. Where the leased property is part of a “voluntary unit,” then the well must be located a minimum of 330 feet from the unit boundary without regard to individual property lines. Wells cannot be drilled or operated in violation of any spacing or pooling order.

### Section 7: Well Spacing (58 P.S. § 407)

DEP has the authority to establish well spacing and drilling units of certain sizes and shapes for each pool of oil or natural gas. The procedure that DEP utilizes in issuing a spacing order is as follows:

- After a well is drilled into the Onondaga horizon, the well operator or land owners “directly and immediately affected by the drilling” of that well or subsequent wells in

- the pool can file an application for a well spacing order. An application for a spacing order cannot encompass more than 10 square miles.
- DEP will provide notice that a hearing will take place.
  - DEP will hold a public hearing to determine what area is to be included in the well spacing order and how much acreage will be in each unit. DEP also will determine where wells can be drilled in these units. DEP will consider the following factors in reaching its determinations:
    - Surface topography and individual property lines;
    - Current and proposed well spacing plans;
    - Depth of production;
    - Characteristics of the producing formation;
    - Maximum efficient and economical drainage area for one well; and
    - Geologic or scientific data related to the pool.
  - After an application has been filed, DEP will determine whether to establish a spacing order within 45 days. If an order is issued, DEP will create a spacing unit that is at least as large as needed to “efficiently and economically be drained by one well.” The units within a pool will have uniform sizes and shapes, but DEP has authority to vary the unit shapes and sizes to accommodate previously drilled wells and property lines. Unit sizes for oil wells and gas wells can differ within the same pool.
  - The spacing order will state the minimum distance that a well must be located from a unit boundary. An operator can locate a well closer to the boundary, subject to approval by DEP, under certain circumstances. In such a case, DEP can restrict production from that well so that each person in the spacing unit does not produce or receive more than his or her share of the production.
  - A spacing order shall cover all land believed to be included in the pool. DEP can modify the spacing order as necessary.
  - Once notice of a hearing to establish spacing units has been issued, no wells can be drilled in the pool without authorization from DEP.

#### Section 8: Integration of Interest in Spacing Units (58 P.S. § 408)

When a spacing unit includes multiple real estate parcels that are owned separately, the owners may voluntarily integrate their parcels for the purpose of developing the natural gas resources within the spacing unit. If the landowners do not reach a voluntary agreement, “an operator having an interest in the spacing unit” can apply for an integration order from DEP. DEP can issue an integration order with “terms and conditions that are just and reasonable.” Prior to issuing an integration order, DEP must conduct a public hearing after notifying all interested parties.

#### Section 9: Validity of Unit Agreements (58 P.S. § 409)

Unitization agreements between owners of oil and gas interests do not violate laws prohibiting monopolies or relating to restraint of trade or commerce.

#### Section 10: Rules, Regulations, Notices, Orders and Hearings (58 P.S. § 410)

DEP will establish rules and regulations for procedures to administer the OGC Law. With few exceptions, there is a hearing and notice requirement before any order can be issued by DEP. Notice must be provided as prescribed by this section. “All rules, regulations, and orders

issued” by DEP are public records. A spacing or pooling order is not valid until it is recorded in the appropriate county recorder of deeds office.

Section 11: Procedure Before the Commission (58 P.S. § 411)

At a hearing or during an investigation, DEP can summon witnesses and require certain documents to be produced. If a party refuses to comply with a subpoena issued by DEP, a Court of Common Pleas can act to enforce the subpoena.

Section 12: Penalties (58 P.S. § 412)

A violation of the OGC Law is punishable by a fine ranging from \$500 to \$5,000 or imprisonment of not more than six months, or both. Each day is considered to constitute a separate offense.

Section 13: Court Review (58 P.S. § 413)

This section was repealed in 1978.

Section 14: Enforcement (58 P.S. § 414)

DEP can pursue injunctive relief to prevent a person from violating or continuing to violate the OGC Law.

Section 15: Commission Personnel (58 P.S. § 415)

DEP can hire any employees or experts that are necessary to enable it to fulfill its responsibilities under the OGC Law.

Section 16: Constitutionality (58 P.S. § 416)

If one portion of the OGC Law is found to be invalid or unconstitutional, that invalidity will not affect the remainder of the OGC Law.

Section 17: Appropriation (58 P.S. § 417)

At the time of enactment, funds were appropriated for administration of the OGC Law.

Section 18: Repeals (58 P.S. § 418)

Specific legislation from 1937 has been repealed.

Section 19: Effective Date (58 P.S. § 419)

The OGC Law took effect on September 23, 1961.