



Illinois Department of Natural Resources

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JB Pritzker, Governor
Colleen Callahan, Director

Land Reclamation Division

Memorandum No. 2021-02

To: All Coal Operators

From: Nick San Diego, Supervisor
Land Reclamation Division

A handwritten signature in black ink, appearing to read "NSD", positioned to the right of the "From:" line.

Date: February 9, 2021

Re: LRD Methane Flaring Policy

Extraction of coalbed methane for carbon credits by third-party companies (e.g. not mining operation, reclamation, or consulting companies) has become increasingly common. The Land Reclamation Division (LRD) has become involved in these scenarios because these extraction boreholes, or other gas wells, often either exist on LRD-permitted area or are proposed to be drilled on LRD-permitted area. Generally, gas wells that are permitted by the Office of Oil and Gas Resource Management (OOGRM), and that are not necessary to facilitate surface coal mining and reclamation operations, do not fall under LRD jurisdiction or its bonding regulations. However, cases may arise where gas wells do fall under LRD jurisdiction, LRD reclamation requirements, and/or LRD bond release considerations.

The following information outlines the general LRD policy on gas extraction wells (production, flaring, or otherwise). Please note that the possible scenarios described below are not all-inclusive and that each proposed well, or existing well/borehole, must be evaluated on a case-by-case basis. Questions regarding the LRD's methane flaring policy should be directed to Kristi Dodson, the LRD well/borehole Lead, at (217) 785-0399 or kristi.dodson2@illinois.gov.

Existing LRD-Permitted Wells/Boreholes No Longer Necessary to Facilitate Mining/Reclamation

1. Existing LRD wells/boreholes previously drilled, permitted, and bonded under the LRD program that may be temporarily sealed, or remain un-plugged or sealed, and are no longer necessary to facilitate surface coal mining and reclamation operations, may be proposed for use under the OOGRM program.

2. The conversion of an existing LRD well/borehole to an OOGRM-permitted well/borehole is allowed under 62 Ill. Adm. Code 1817.13; however, the steps required to achieve this action under the OOGRM program are completely dependent upon decisions made by that Office and under those regulations. Applications for re-permitting an existing LRD well/borehole under the OOGRM program should be submitted directly to OOGRM, with LRD copied for information purposes. Should OOGRM issue a valid permit for the well/borehole, then the permittee should submit an Incidental Permit Revision (IPR) to LRD requesting removal of said well/borehole from the LRD program.
3. For Phase III bond release to occur:
 - a. *Either* the permittee demonstrates a valid OOGRM permit and completes the LRD permitting process to change the post-mining land use of the applicable acreage to Industrial/Commercial *or*
 - b. The well/borehole must be properly plugged and abandoned; *and then*
 - c. The approved post-mining land use must be achieved.
4. If the permittee cannot secure a valid OOGRM permit for the existing LRD well/borehole, then the well must be properly plugged and abandoned, and the approved post-mining land use must be achieved.

New OOGRM Permitted Wells/Boreholes Located or Proposed Within LRD Surface Affected Permit Areas

1. The term “new” OOGRM well/borehole indicates a well or borehole that is not pre-existing and one has not been previously permitted under the LRD program. The term LRD “affected” permit area means an area that has been declared affected via an SCML-3 form, or the topsoil has been removed and the acreage will be declared affected via an SCML-3 form for the applicable fiscal year.
2. New OOGRM wells/boreholes with a valid OOGRM permit, that are drilled within an LRD permit area that has been declared affected or will be declared affected by mining and/or reclamation operations, may be acknowledged via a General Inspection Report. These wells/boreholes are not regulated or bonded by LRD and the regulatory jurisdiction lies with the OOGRM program. The permittee or operator shall inform the LRD mine inspector of known or planned gas wells that fall under this category. The LRD inspector will coordinate with the LRD well/borehole Lead for appropriate approvals.
3. For Phase III bond release to occur:
 - a. *Either* the permittee demonstrates a valid OOGRM permit and completes the LRD permitting process to change the post-mining land use of the applicable acreage to Industrial/Commercial *or*
 - b. The well/borehole must be properly plugged and abandoned; *and then*
 - c. The approved post-mining land use must be achieved.

Unaffected LRD Permit Areas

1. OOGRM wells/boreholes that are not used to facilitate surface coal mining and reclamation operations and that are located or proposed on unaffected permitted area are not regulated or bonded by LRD.
2. Should the area where an OOGRM well/borehole is located remain unaffected or is projected to remain unaffected by mining operations and/or reclamation activities throughout the life of the permit, then the area may be released as excess/unaffected at the appropriate time.
3. Should the area where an OOGRM well/borehole is located be declared affected by mining operations and/or reclamation activities at any time during the life of the permit, then for Phase III bond release to occur:
 - a. *Either* the permittee demonstrates a valid OOGRM permit and completes the LRD permitting process to change the post-mining land use of the applicable acreage to Industrial/Commercial *or*
 - b. The well/borehole must be properly plugged and abandoned, *and then*
 - c. The approved post-mining land use must be achieved.
4. Should LRD determine that an OOGRM gas well proposed or located in an unaffected area is necessary to facilitate surface coal mining and reclamation operations (e.g. an MSHA required de-gas borehole), then the well must be permitted and bonded under the LRD program and the area must be declared “affected” by mining and/or reclamation activities.

New OOGRM Permitted Wells/Boreholes Located Above a Shadow Area Where No LRD Surface Permit Exists

1. This scenario may occur when a third-party company submits a request to OOGRM to drill a gas or other well/borehole above the shadow area of an underground mine, but no surface permitting for an Incidental Boundary Revision (IBR) has occurred. This could be true of both an active underground mine and an inactive underground mine (idled or sealed and properly abandoned).
2. The LRD well/borehole Lead will determine whether the well/borehole is within the shadow area of an active mine or within any non-contiguous LRD permitted area. If LRD has no jurisdiction over the shadow area or any surface permits associated with the shadow area, then the OOGRM well/borehole is not under any regulatory purview of LRD.
3. Should the OOGRM well/borehole location be above an active underground mine or within any shadow area with associated LRD surface permits, then the LRD well/borehole Lead will determine whether the well/borehole is considered an activity required to facilitate surface coal mining and reclamation operations. As an example, de-gas boreholes installed in advance of a longwall panel to extract methane during mining, and after subsidence is considered an activity required to facilitate mining. If this determination is made, then the well/borehole will be permitted by LRD and require an IBR.

4. For Phase III bond release to occur in the gas well/borehole IBR location:
 - a. *Either* the permittee would need to follow procedures to have an LRD borehole re-permitted by a third party under the OOGRM program and released from liability under the LRD program (see existing LRD well/borehole section) and then demonstrate a valid OOGRM permit and complete the LRD permitting process to change the post-mining land use of the applicable acreage to Industrial/Commercial, *or*
 - b. The well/borehole must be properly plugged and abandoned, *and then*
 - c. The approved post-mining land use achieved.
5. Alternatively, should the OOGRM gas well location be within a shadow area with associated LRD surface permits and determined not to be an activity to facilitate surface coal mining and reclamation operations, then the OOGRM well/borehole is not under any regulatory jurisdiction of LRD and may be acknowledged via a General Inspection Report.

LRD Permitted De-gas (or other) Boreholes Currently in Use, or Necessary to Facilitate Mining or Reclamation

1. A third-party company may flare methane from a currently operational, permitted LRD de-gas (or other) borehole that is necessary, or will remain necessary, to facilitate surface coal mining and reclamation operations. Information regarding the on-site deployment specifics (e.g. rolling set up vs. installation of additional concrete pads, required permitting from IEPA Bureau of Air, etc.) and information regarding the location and functionality of the borehole will be provided to the site inspector and the LRD well/borehole Lead. The information will be evaluated on a case-by-case basis. If the flaring can occur without any additional required bond, then the activity may be acknowledged via a General Inspection Report. If the flaring would require additional bond, then LRD will require an IPR to be submitted by the permittee for the activity.
2. At the time the LRD permitted de-gas (or other) borehole is no longer necessary to facilitate surface coal mining and reclamation operations, the methane flaring must cease, and borehole must be plugged and properly abandoned unless the well is re-permitted under the OOGRM program (see existing LRD well/borehole section).

Please note that changes to Industrial/Commercial post-mining land uses require a significant permit revision. In addition, if Prime Farmland Cropland is the required soil capability and post-mining land use of the applicable acreage, Prime Farmland replacement plans must be made and approved by the appropriate Department staff. Should the 1:1 replacement requirement for Prime Farmland not be resolved, then the acreage shall not be converted to Industrial/Commercial. Instances where changes to a post-mining land use of Industrial/Commercial is not an option will require any gas wells or other wells/boreholes to be properly plugged and abandoned and the approved post-mining land use achieved prior to Phase III bond release. LRD will not release Phase III bond and liability where open/operational gas wells remain within a land use that is not approved to support such an activity.