

# OHIO OIL & GAS ASSOCIATION MEMORANDUM

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TO: **OOGA Producer Members**

FROM: **Matt Hammond, Sr. V.P ( [hammond@ooga.org](mailto:hammond@ooga.org) )**

DATE: **February 15, 2018**

RE: **Form 10 – Recent Modifications**

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Since its inception, Ohio Oil and Gas Law has stated in O.R.C. 1509.11 the requirement that every year all registered well owners report to the ODNR, Division of Oil and Gas, (DOGMR) the annual production from each well they operate during the previous calendar year. Over time, DOGMR has asked for this information in a straightforward manner using "Form 10". On it, the operator reported the amount of crude oil, natural gas (Mcf) and brine a well produced during the previous calendar year.

The filing deadline is March 31 for conventional producers, quarterly for horizontal operators.

Recently, members of the OOGA Producers Committee noticed that the Division has proposed significant modifications to Form 10. These revisions include for each well an updated Latitude/Longitude well location; Real Property tax information; names and addresses of users of domestic wellhead gas; and various data related to tank storage capacity and contents. Obviously, the newly proposed Form 10 goes beyond serving the original intent of law. That creates confusion and concerns that such information could be mishandled, if not abused.

Recall also that in 2001 your Association successfully worked with the Ohio General Assembly and Ohio EPA to amend Ohio law so that information reported on ODNR's Form 10 would be used to replace the annual SERC filing to comply with Community Right to Know requirements (EPCRA)<sup>1</sup>. Several years ago, an anti-oil and gas activist successfully challenged that method. U.S. EPA took note and then informed the ODNR Division of Oil and Gas of adjustments necessary to meet federal and state compliance standards. DOGRM Chief Simmers reports that executing that objective has been an ongoing process but he expects to finalize that process by 2020.

A delegation of OOGA and SOOGA representatives recently met with Chief Rick Simmers and staff to discuss the expanded data request and to discuss ways to mitigate the possible impacts for the information requested. Chief Simmers thoughtfully listened to our concerns. He stood by his position that Ohio law (has always) required that he collect from producers what each well annually produced (not necessarily sold); committed to work with your Association to develop a revised Form 10 that all industry trusted; and, would soon finalize the 2001 legislative goals of complying to SERC/EPCRA filing via compliance with related ODNR reporting (and thus reduce paperwork burdens as was intended).

In several ways the discussion on a new Form 10 involves wider issues related to taxation policy as administered by several agencies, managing marginal wells, landowner issues and even privacy. While these matters cannot be resolved here, we can work to ensure that the Form 10 annual reporting requirement is not intrusive or exceeds statutory intent. Here is what we brought back from the meeting:

- The Longitude/Latitude (Form Section II) request is an effort by the Agency to update their database replacing what they believe is often erroneous information. Accurate well location data benefits all parties. However, in this context, we suggest you consider this optional.
- The Real Property Tax Information (Form Section IV) is the Ohio Tax Department's effort to use Form 10 to collect data for Real Property taxation (ad valorem). The ODNR/DOGRM openly acknowledges that they lack lawful authority to gather production information sold for Ad Valorem purposes. That's a problem. The Form 10 says "optional". We suggest that you consider not supplying this information.
- The Domestic Use section (Form Section V) is not required by law, but once provided becomes public record. We expect revised forms to say this is optional. This is information that could be abused for other purposes. We suggest that you consider not supplying this information.

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<sup>1</sup> Commonly known as SERC (State Emergency Response Commission) - <http://epa.ohio.gov/dapc/serc.aspx> ) filings for Community Right-to-Know compliance, pursuant to the Federal Emergency Planning and Community Right-to-Know Act (EPCRA) <https://www.epa.gov/epcra> .



- The Tank Information section (Form Section VI) is data that the DOGRM will be using to build the database necessary to meet requirements for SERC/EPCRA filings. We appreciate the DOGRM's ongoing work to construct and populate the requisite database and website. However, at this time this section does not fully meet your SERC/EPCRA filing obligations and you still must file the old paper forms. So, it's duplicative. But perhaps it does help the Division to reach a future goal. With those details in mind, we have no other related recommendation – it's your choice.

Several related points:

- Remember, the Form 10 you submit is a public document and any optional information you provide is a public record.
- Based on our recent discussions, Chief Simmers and staff said they would adjust and revise the Form 10. **As of the date of this memo, that has yet to occur.** Knowing that, you can download from ODNR's website the latest version of Form 10 here: <http://oilandgas.ohiodnr.gov/portals/0/Forms/oilgas/production/Form10.StatementofProduction.dotx>
- At the conclusion of our recent meeting, DOGRM staff said that they have received production reports for this year using the old form. They acknowledged that they would accept the submittals and that those operators who did so are in compliance.
- Operators must report annual production per well by March 31 for the previous calendar year. Failure to do so is a violation of law and may lead to an automatic finding by the Chief of material and substantial violation. You don't want to be in that situation. We recommend that you stay in full compliance with Ohio law.
- Your Association continues to work with Chief Simmers and his staff to resolve this and other issues. Chief Simmers, and his staff will be attending the OOGA Winter Meeting. Mr. Simmers will be a participant at the Producers Committee meeting on Thursday morning, March 8 to discuss this and other issues. Additionally, Mr. Simmers will take part in an earlier meeting that day focused on the Idle & Orphan Well Plugging Program. There will be several opportunities to interact with the oil and gas regulatory program during the Annual Meeting. We hope to see you there.

As with this or any other matter of concern, please call should you wish to discuss further. I look forward to hearing from you.

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**On a related issue.....**

### **EPCRA Annual Reports due March 1, 2018**

U.S. EPA has modified the information that is required as part of the Emergency Planning and Community Right to Know Act (EPCRA). Earlier this year Ohio's State Emergency Response Commission, which implements the EPCRA program, sent out updated manuals which outline how oil and gas producers may file their annual hazardous chemical inventory reports. In the manual you will note that the facility identification form has a number of new checkboxes where the well owner must identify physical and health hazards associated with the chemicals on site. As of now, outside of material brought on site for other purposes, the only chemicals that will need to be reported are crude oil. (We are researching brine.) To assist members to meet this requirement OOGA member Hull Environmental Services Inc., has provided examples on how a producer COULD, SHOULD HE CHOSE, fill out these physical and health hazards for on typical Safety Data Sheets for these materials. Hopefully, this service will save some headaches for members and provide a coherent way to meet compliance. We thank Hull Environmental Services for their assistance.

To access this information please contact Penny Seipel at [penny@ooga.org](mailto:penny@ooga.org) or call the office (614-824-3901) and ask for Penny.

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