

JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
ARTHUR COCCODRILLI
ROBERT J. HARBISON, III
JOHN F. MIZNER, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417
FAX: (717) 783-2664
irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>

INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

August 17, 2000

Honorable James M. Seif, Chairman
Environmental Quality Board
Rachel Carson State Office Building
400 Market Street, 16th Floor
Harrisburg, PA 17105

Re: Regulation #7-353 (IRRC #2124)
Environmental Quality Board
Oil and Gas Wells

Dear Chairman Seif:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce
Executive Director

wbg

Enclosure

cc: Honorable Arthur D. Hershey, Majority Chairman, House Environmental Resources & Energy Committee
Honorable Camille George, Democratic Chairman, House Environmental Resources & Energy Committee
Honorable Mary Jo White, Chairman, Senate Environmental Resources & Energy Committee
Honorable Raphael J. Musto, Minority Chairman, Senate Environmental Resources and Energy Committee
Sharon Trostle
Barbara Sexton

Comments of the Independent Regulatory Review Commission

on

Environmental Quality Board Regulation No. 7-353

Oil and Gas Wells

August 17, 2000

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The Environmental Quality Board (EQB) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by July 17, 2002, the regulation will be deemed withdrawn.

1. Section 78.1. Definitions. - Clarity.

Reportable release of brine

This definition contains substantive reporting thresholds. It would be more appropriate to move the reporting thresholds to Section 78.66 of the regulation.

2. Section 78.17. Permit renewal. - Clarity.

This section requires notice to parties within 1,000 feet of the well. Regarding notice to a gas storage reservoir, it is not clear whether the 1,000-foot limit is from a gas storage reservoir or a gas reservoir protective boundary. This should be clarified in the final-form regulation.

3. Section 78.53. Erosion and sedimentation control. - Clarity.

The last sentence of this section refers the reader to the "best management practices" in the Oil and Gas Operators Manual. However, the purpose of this reference is unstated. The final-form regulation should explain the application or purpose of the referenced document. For example, the language in Section 78.78(a) of the proposed regulation states "(t)he Department will use recommendations ...listed in the Department's Coal Pillar Technical Guidance"

4. Section 78.56. Pits and tanks for temporary containment. - Clarity.

Existing language in Subsection (d) requires the owner or operator to "remove or fill the pit." The proposed addition of the last sentence requires pits to be "restored." We understand that these requirements are the same. To avoid possible confusion, we suggest that the EQB replace the word "restored" with "remove or fill the pit" to clarify the intent in this subsection.

5. Section 78.61. Disposal of drill cuttings. - Clarity.

Subsection (b)(8) uses the term “liquid fraction” while Subsection (c) uses the term “free liquid fraction.” It is our understanding that these terms should be the same. Accordingly, the term in Subsection (b)(8) should be amended to “free liquid fraction” to be consistent with Subsection (c).

6. Section 78.62. Disposal of residual waste - pits and Section 78.63. Disposal of residual waste - land application. - Consistency with the statute.

Section 510-34 of the Administrative Code of 1929 (71 P.S. § 510-34) exempts any well drilled “prior to April 18, 1985.” The regulation requires surety or collateral bonds for wells drilled “after April 18, 1985.” To be consistent with the statute, the regulation should apply to wells drilled “after April 17, 1985.”

7. Section 78.66. Release of polluting substances. - Clarity.

The title of this section and Subsection (a) refer to “polluting substances.” However, the defined term in Section 91.1 of the Water Resources regulations is “pollutant.” For clarity, the Department should use the defined term “pollutant” in the final-form regulation. Additionally, in Subsection (e) the EQB should replace the reference to “substance” in Paragraphs (1) – (3) with the term “pollutant” to be consistent throughout the regulation.

Subsection (c)(4) contains the phrase “the quantity of the brine involved.” It is not clear what is meant by the term “involved.” For example, is the “quantity of brine involved” all of the brine in a pit that can potentially leak, or just the quantity that has leaked from the pit? The EQB should consider using the term “released” instead.

8. Section 78.76. Drilling within a gas storage reservoir. - Clarity.

In Subsection (b), the word “or” in the phrase “drilling, casing and cementing plan or the proposed well” should be changed to “for.”

9. Section 78.78. Pillar permit applications. - Clarity.

In Subsection (b) the reference to the “most recent coal pillar study” should be clarified by adding a reference to Subsection (a).

10. Section 78.87. Gas storage reservoir protective casing and cementing procedures. - Clarity.

In Subsection (a) the term “reservoir protective area” should be prefaced by the terms “gas storage” to avoid any confusion.