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March 8, 2016

Pennsylvania Independent Regulatory Review Commission  
333 Market St., 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Chairman Mizner and Honorable Members of the Commission:

The Pennsylvania State Association of Township Supervisors (PSATS) has reviewed the Environmental Quality Board's final rulemaking, Regulation #7-484 (IRRC #3042), Environmental Protection Performance Standards at Oil and Gas Well Sites (25 Pa Code Chapters 78 and 78a), as they relate to conventional oil and gas wells. Although most of the proposed changes do not directly affect our membership, we have a few concerns and questions that were not addressed in prior submittals to the department.

Section 78.52a: This provision requires that an operator identify the location of "active, inactive, orphaned and abandoned wells" within a distance of 1,000 feet from a well bore. Since many orphaned or abandoned wells are not properly known or marked, it may be of benefit for the operator to also have to "publish a notice in a newspaper of general circulation in the host municipality and county." In this way those that know of past activities will have the chance to bring their knowledge forward.

Section 78.61(f): This provision should be expanded to include notification to the "municipality in which the disposal occurred." This would guarantee that the municipality would also have knowledge of what has been permitted and is taking place within its borders.

Section 78.63(a) (5): This provision should be expanded to include notification to the "municipality in which the disposal occurred." This would guarantee that the municipality would have knowledge of what has been permitted and taking place within its borders.

Section 78.65(b) (5): This provision has been amended since our previous submittals. Our concern now is that the owner/operator should remain responsible for compliance with the terms of the restoration plan and that there be a requirement to include a provision that would require the owner/operator to provide a "bond or other financial security" to the department to assure compliance with the stormwater requirements should the owner/operator cease to exist. *(This provision was previously listed as Section 78.65(b) (6).)*

Section 78.70: This provision allows the use of brine from conventional oil and gas wells for dust suppression and road stabilization. We understand that the proposed regulations only allow for the use of "conventional well" brine for this purpose and we have no issue with that determination at this time. Our concerns are the following:

- Is this material to be used on unpaved public roads, state and local, or just private roads?

- Are these regulations any different from the requirements of the PA Department of Transportation pertaining to the application of brine on state or municipal unpaved roads? PennDoT already has standards for the application of brine on unpaved roads.
- If allowed to be used on public roads, is the “plan applicant” the governing body or some other individual or entity?
- If PennDoT or a municipality plans to spread the brine, must the plan be approved by the department, and if so must the plan follow department standards or those of PennDoT?
- If allowed to be used on public roads, must the municipality or the state authorize the use of the brine on their respective roads? No individual has authority to perform any work on any municipal or state road without the proper authority’s prior approval.
- If the state or municipality is spreading the brine do they have to comply with the signage requirements since their trucks are already marked?
- What is the purpose of the notification to the department when the spreading of the brine is to take place? PennDoT allows brine to be applied to non-paved roads for dust control and have had calibrations developed for this purpose. Again, are the department’s regulations in compliance with PennDoT’s?
- Some of the provisions of subsection (c) contradict with subsection (e) and (f). An example is (c) (6) states that the application of the brine shall be “the proposed rate” in the plan, while (f) states that “the road shall initially be spread at a certain rate and then at a subsequent rate.” If the regulations are stating the allowable rates, why the need for the plan to spell them out?

Section 78.70a: allows for the use of brine from oil and gas wells for pre-wetting anti-icing and de-icing. Again we understand that the proposed regulations only allows for “conventional well” brine to be use for this purpose and we have no issue with that determination at this time. Our concerns are the following:

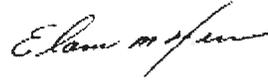
- This section seems to imply that this material may be used on paved roads, both public and private. Since local governments have more roads than PennDoT, why is PennDoT to be notified if this material is to be used on municipal roads and not the municipality if it is to be use on a municipal road? A better question would be why is PennDoT to be notified since no individual may perform any function on state roads without PennDoT’s prior approval.
- Are these regulations any different from the requirements of PennDoT’s pertaining to the application of brine on state or municipal paved roads?
- If this material is going to be used on state and municipal roads, must the state and municipality be the plan applicant?
- Are the application rates in subsection (f) sufficient for the purposes intended and do they correspond with those already established by PennDoT?
- Does the state or municipality have to comply with the signage requirements since their trucks are already marked?
- Subsection (j) indicates that brine may not enter bodies of water. If a paved road is in proximity of a water body, how is the applicant to keep brine residue out of the water source when the snow and ice melts? A better question would be, how is PennDoT or a municipality to keep runoff from a roadway with salt brine dissolved in it from entering a storm sewer and finally a stream?

Section 78a.52a: requires that an operator identify the location of “active, inactive, orphaned and abandoned wells” within a distance of 1,000 feet from a well bore. Since many orphaned or abandoned wells are not properly known it may be of benefit for the operator to also have to “publish a notice in a newspaper of general circulation in the host municipality and county.” In this way those that know of past activities will have the chance to bring their knowledge forward.

Section 78a.57a (n) (iv) (G) (4): should read that the “site ... existed prior to oil and gas operations to the ‘maximum’ extent possible.” This would guarantee that the land is as close to prior activity as possible.

We appreciate the opportunity to comment on these proposed regulations. Should you need further clarification on our comments, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elam M. Herr".

Elam M. Herr  
Asst. Executive Director