

3042



**Associated Petroleum
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April 11, 2016

The Honorable John F. Mizner, Esq., Chairman
Pennsylvania Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

And

irrc@irrc.state.pa.us

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IRRC

Re: Final-Form Rulemaking: Environmental Protection Performance Standards at Oil and Gas Well Sites (25 Pa. Code Chapters 78 and 78a) - IRRC Number 3042

Dear Chairman Mizner:

Associated Petroleum Industries of Pennsylvania (API-PA) wishes to offer comments on the Environmental Quality Board Final-Form Rulemaking: Environmental Protection Performance Standards at Oil and Gas Well Sites (25 Pa. Code Chapters 78 and 78a) - IRRC Number 3042.

API-PA is a division of the American Petroleum Institute (API), a national trade association that represents all segments of America's technology-driven oil and natural gas industry. Its more than 650 members – including large integrated companies, exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms – provide most of the nation's energy. The industry also supports 9.8 million U.S. jobs and 8 percent of the U.S. economy, and, our industry is spending more than any other industry in zero- and low-emissions technologies (\$90 billion between 2000–2014) and almost as much as the federal government. Many of our members have a direct interest in this rulemaking.

API is also a standard setting organization. For 90 years, API has led the development of petroleum and petrochemical equipment and operating standards. These standards represent the industry's collective wisdom on everything from drill bits to environmental protection and embrace proven, sound, engineering and operating practices and safe, interchangeable equipment and materials for delivery of this important resource to our nation. API maintains more than 600 standards and recommended practices. Many of these are incorporated into state and federal regulations; and increasingly, they're being adopted by the International Organization for Standardization. API encourages and participates in the development of state regulations that are protective of the public, the environment and the industry workforce. In this context, API offers the following comments.

API has submitted numerous comments to DEP throughout the development of Chapters 78 and 78a. Some of those comments resulted in changes that make the regulations clearer to understand and more effective in application to the industry. Our comments on the Advanced Notice of Final Rulemaking were included in the

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documents submitted to you by DEP, so they will not be repeated here. However, several of those comments were not addressed by DEP, and warrant your consideration during your review and action on the regulations.

The primary section where member companies take issue to the regulation as adopted by the Environmental Quality Board is the expanded definition and use of "public resources" as applied to the permitting process. In light of the Pennsylvania Supreme Court ruling finding Section 3215 (c) and (e) of Act 13 invalid, the definitions related to "public resources" in Section 78a.1, which include Common Areas of a School's Property, Other Critical Communities, Pennsylvania Natural Diversity Inventory- PNDI and use of the PNDI receipt, Playgrounds, Public Resource Agency, and Wellhead Protection Area should not be allowed, nor should those terms and associated requirements be included in Section 78a.15 or in the corresponding permit forms and instructions. Consequently, we join with TAB, PIOGA, MSC, IRRC and other commenters in recommending removal of the "public resources" provisions as contained in the final-form rulemaking.

In addition, the water supply testing and replacement requirements in Sections 78a.51 and 52 and Technical Guidance Documents for implementation require private water wells to be sampled as if they were public water supplies. Private water well construction is unregulated in Pennsylvania. The construction and operation of public water supplies are heavily regulated. Public water supplies can use surface or groundwater sources that can become contaminated by upstream discharges or upgradient activities. Holding operators responsible for testing private water supplies for parameters that are not related to oil and gas activities is an unnecessary expense and makes it difficult to resolve complaints.

Site restoration requirements in Section 78a.65(a)(1) & (b)(1) press industry to restore well pads and reduce their size, regardless of whether they may need to be rebuilt in the future for additional drilling or operations. Rather than erosion control and stabilization during the interim between drilling multiple wells on a pad, restoration is to occur on areas other than those necessary to operate the well. This adversely affects pad size and development costs, and is not necessary if simply spreading topsoil and seeding the pad are adequate interim actions to control erosion.

And finally, Section 78a.121 requires monthly waste reporting. This frequent reporting, which is not required of any other industry in Pennsylvania, causes unnecessary time and expense, and should be modified to some longer interval of time comparable to other industries.

Thank you for the opportunity to offer comments on this final rulemaking. We also support the comments submitted by the MSC and PIOGA. Please contact me if you have any questions or if additional information is needed regarding our comments.

Sincerely,



Stephanie Catarino Wissman
Executive Director

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Cc: Commissioner George D. Bedwick
Commissioner W. Russell Faber
Commissioner Murray Ufberg, Esq.
Commissioner Dennis A. Watson, Esq.
David Sumner, Executive Director, IRRC
Senate Environmental Resources & Energy Committee
House Environmental Resources & Energy Committee