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Cooper, Kathy

**From:** RegComments@pa.gov  
**Sent:** Tuesday, January 07, 2014 2:49 PM  
**To:** Environment-Committee@pasenate.com; apankake@pasen.gov; IRRC;  
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environmentalcommittee@pahouse.net  
**Cc:** ra-epmsdevelopment@pa.gov  
**Subject:** Proposed Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites



**Re: Proposed Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites**

**The Environmental Quality Board (EQB) has received the following comments regarding the above-referenced proposed rulemaking.**

**Commentor Information:**

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**Comments entered:**

- 1) All fluids related to oil and gas development should be contained in engineered facilities, not "natural depressions." (Section 78.1, definition of "freshwater impoundment" and "pit," Section 78.56)
- 2) The definition of "seasonal high groundwater table" should be retained in the proposed regulations, because the term continues to play a key role in regulating oil and gas activities. (Section 78.1)
- 3) The DEP should respond to comments received about a permit that may affect an important public resource. (Section 78.15(d))
- 4) The DEP should not compromise its obligation to protect the environment by balancing the citizens' constitutionally guaranteed right against private interests in oil and gas. (Section 78.15(g))
- 5) The DEP's duty to investigate water pollution should extend to all oil and gas activities. (Section 78.51(c)).
- 6) The prohibition on construction of fluid storage areas within 100 feet of certain water bodies should be extended to all water bodies. (Section 78.59c)
- 7) The DEP should stop promoting the disposal of residual waste at well sites. (Section 78.62)

- 8) The DEP should not allow natural springs to take the place of engineered monitoring wells used to measure the effects of fluid storage areas. (Section 78.59c(g)(2))
- 9) The DEP should strengthen its regulatory mechanisms for ensuring that pits and impoundments are constructed in a structurally sound manner and according to regulation. (Section 78.59c(m))
- 10) Any disposal of waste materials at well sites should require that representative samples of the material be taken and analyzed and submitted to the agency to demonstrate that, e.g., the drill cuttings are not contaminated, or that residual waste meets the regulatory standards. (Sections 78.61 and 78.62)
- 11) The collection and analysis of chemical samples of waste that the operator intends to dispose on site should not be discretionary; the regulations should be clear that is a mandatory obligation. This is particularly of concern where the disposal site does not need to be inspected by the agency prior to closure, and there is no long-term groundwater monitoring. (Section 78.63(19))
- 12) The DEP's proposed regulations for the road-spreading of brine pose unacceptable threats to the Commonwealth's water resources, and would also be unlawful. (Section 78.70a) All wastewaters from oil and gas operations, including brine, are residual waste under the Pennsylvania Solid Waste Management Act ("SWMA"). It follows that any beneficial use of brine, including dust suppression and de-icing, is subject to regulation under the DEP's SWMA regulations at 25 Pa. Code Chapter 287. These regulations do not currently allow permits-by-rule for road-spreading or any other beneficial use of brine. Beneficial uses of brine may be approved only under the general permit scheme set forth in Subchapter H of Chapter 287. Thus, the permit-by-rule scheme proposed in sections 78.70 and 78.70a is not only imprudent; it would also be illegal.
- 14) The DEP's revisions to Chapter 78 should contain meaningful standards for the final restoration of well sites and impoundment sites as well as for interim, "post-drilling" restoration period. (Sections 78.65, 78.59b, and 78.59c)
- 15) The DEP's proposed regulations regarding bonding are inadequate, because they fail to ensure that well sites and impoundment sites will be finally restored before they are released from operators' bonds. (Subchapter G)

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No attachments were included as part of this comment.

Please contact me if you have any questions.

Sincerely,  
Hayley Book

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