

3042
Cooper, Kathy

From: RegComments@pa.gov
Sent: Wednesday, February 26, 2014 4:17 PM
To: Environment-Committee@pasenate.com; apankake@pasen.gov; IRRC;
RegComments@pa.gov; eregop@pahousegop.com;
environmentalcommittee@pahouse.net
Cc: ra-epmsdevelopment@pa.gov
Subject: Proposed Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites

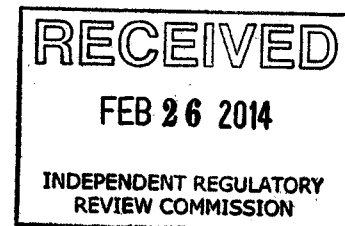


Re: Proposed Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites

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

Commentor Information:

Samuel Harvey
President Bull Run Energy LLC (bullrunenergy@gmail.com)
504 West Third Ave
Warren, PA 16365 US



Comments entered:

Bull Run Energy, LLC
504 1/2 West Third Ave
Warren, PA 16365

Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17150-8477

Dear Board Members:

I am the primary owner of Bull Run Energy, LLC . My company produces oil and gas from conventional oil and gas wells in Pennsylvania. I didn't grow up in the oil patch and I don't come from a long line of oil men. I don't have thousands or even dozens of wells. I am an entrepreneur who is trying to build a company. We drilled 4 wells last year and I hope to drill 10 or 12 this year. My office is above my garage and my work truck has car seats in it because it also our family truck. I am a well pumper, construction supervisor, development planner, geologist, landman, bookkeeper, company man and most relevantly the environmental compliance officer. Every regulation that needs understood, report that needs filed, plan that

needs written, record that needs sent, notification that needs submitted on a non-functioning website - that all has to be done by me. I can't contract out 15 minutes here and 2 hours there to meet regulatory compliance; it's just not practical. Of course the DEP isn't the only government agency that needs my constant attention. There is also the EPA, IRS, OSHA, PENNDOT, Township Road Master, and many others. The cumulative effect of all of these laws and regulations is a tremendous burden not only in terms of dollars spent, but in efficiency.

My company is a member of the Pennsylvania Grade Crude Oil Coalition (PGCC). PGCC has carefully reviewed the proposed regulatory changes and the accompanying Regulatory Analysis Form submitted by the DEP (the DEP Analysis). Our company has participated in that review and, together, we members who work in the conventional oil and gas industry have performed our own analysis of the estimated costs that will be imposed upon the regulated community of conventional oil and gas producers.

Time after time the DEP Analysis fails to state the cost for the new regulatory requirements. One example is the increased burden imposed upon conventional operators generated by the site specific component of proposed section 78.55. Most conventional operators employ a generic PPC plan that meets the requirements of existing section 78.55. Among other items the generic plan lists the company contacts and internal spill cleanup resources and lists the outside contractors who might be called upon to assist in the response. This information is and has been a sufficient guide on how to handle materials and respond to releases or threatened releases, because (i) conventional well and tank sites are small, (ii) the volume of material that could be released from an accidental spill is small, and (iii) there are fewer different materials on site at conventional vs. unconventional operations to manage. The proposed regulation requires a "site specific" plan that meets the requirements in 25 Pa. Code 91.34. Section 91.34 applies to locations where pollutants are both "produced" and "stored" and thus the proposed regulations would require a site specific plan at the well (where the fluid is "produced") and at the separate tank locations (where it is "stored").

The Analysis fails to state either the need for or the cost of such additional burden. Assuming 200,000 conventional well and tank locations, a cost of \$40 for the PPC storage unit, a labor cost of \$25 to install, and a cost of \$100 to prepare each plan, the initial installation cost would be \$33,000,000. That \$100 preparation cost assumes that the plan can be prepared internally. Many conventional operators do not have the internal resources and if the plan preparation is contracted out the cost can run as high as \$500. In that case the high end of the estimate is over \$100 million. Thereafter the plans would have to be periodically updated and damage to the onsite storage boxes will have to be repaired. If we assume an annual update and repair cost at \$125 per site, the annual maintenance cost is \$25,000,000. This is just one example. There are many more costs that are either not cited at all or are significantly understated.

The DEP Analysis also fails to adequately discuss the financial, economic and social context into which the proposed regulations will be introduced. The conventional oil and gas industry is very different than the unconventional, and the conventional industry is not enjoying an economic surge. In fact the profit margins in conventional oil and gas wells is very low. The conventional oil and gas industry is already suffering harm from recently enacted changes in erosion and sedimentation practices and well casing requirements. The difficult economics are reflected in shrinking conventional oil and gas production; new conventional well completions have dropped from 4500 wells six years ago to approximately 1000 this past year. The cost of the proposed regulations will have a catastrophic impact on an industry already in difficulty. The DEP Analysis fails to identify either the amount of those costs or the economic and social context of the conventional oil and gas industry.

Another significant problem with the regulations is that they do not take into account

considerations for a small business like mine. Under section 10.1 of the Regulatory Review Act the DEP must prepare an economic impact statement for any proposed regulation that may have an adverse impact on small businesses, that includes an estimate of the number of small businesses subject to the proposed regulation, a projected cost for reporting, record keeping and other administrative costs and a statement of the probably effect on impacted small business. Section 11 states that a description of any special provisions which have been developed to meet the particular needs of the affected groups and persons including minorities, the elderly, small businesses and farmers should be included by the regulatory agency. Section 12 requires a description of any alternative regulatory provisions, which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected. Section 12.1 requires a regulatory flexibility analysis that shall include the establishment of less stringent compliance and reporting requirements, the establishment of less stringent schedules or deadlines for compliance or reporting requirements, consolidation or simplification of compliance or reporting requirements, the establishment of performance standards to replace design or operational standards required in the proposed regulations and the exemption of small business from all or any part of the requirements contained in the proposed regulation. The DEP failed to meet these important requirements. Yet mine is the exact type of business that is supposed to be protected by these provisions.

In their current form it would be hard for the proposed regulations to include the alternatives and exemptions called for under the Regulatory Review Act. That is because the proposed regulations seek to regulate both the conventional and unconventional oil and gas industry in a single document. However, as many individuals have testified before the EQB, the two industries are distinctly different. The size of well locations, the amount of earth disturbance, the number of truck trips, the well pressures encountered, and the amount of oil and gas strata encountered are all on a different order of magnitude as between the two industries.

Thus, in addition to a need to correct the procedural problems which have led to the proposed regulations (failure to properly analyze the impact upon the conventional industry and failure to meet the requirements of the Regulatory Review Act), the substance of the regulations must be changed to reflect the differences between the conventional and unconventional oil and gas industries.

PGCC has prepared a response to the DEP's Analysis and proposed revised regulations. I ask that the Board give serious consideration to the significant concerns and substantive recommendations in those documents. For the reasons described in this letter as well as in the PGCC documents I ask that you assure that the full economic impact of the proposed rule is properly analyzed and that the final regulations fully comply with the Regulatory Review Act.

Unlike the owners of more established multi-generational companies in Pennsylvania, my family and I moved to Northwest Pennsylvania for one reason, to drill shallow oil wells. I am not from here and don't have extended family in the area. I don't have extensive undrilled lease holdings. What I do have is access to capital and the technical skills needed to grow a company. If the regulations in Pennsylvania become too burdensome and expensive and I won't go out of business, I will just take my capital and move to Kentucky or Ohio or Texas. Warren will have one more empty house and there will be four more empty desks in the declining school system. I hope this doesn't happen.

No attachments were included as part of this comment.

Please contact me if you have any questions.

Sincerely,
Hayley Book

Hayley Book
Director, Office of Policy
PA Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
Office: 717-783-8727
Fax: 717-783-8926
RegComments@pa.gov