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Cooper, Kathy

From: RegComments@pa.gov
Sent: Wednesday, March 05, 2014 9:22 AM
To: Environment-Committee@pasenate.com; apankake@pasen.gov; IRRRC; 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

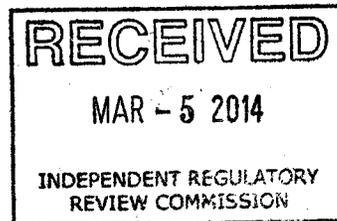


Re: Proposed Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites

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

Commentor Information:

Ken Fleeman
ABARTA Energy (kfleeman@abartaenergy.com)
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Pittsburgh, PA 15238-2906 US



Comments entered:

No text comments were provided as part of this comment submittal. Please refer to attachments below.

These links provide access to the attachments provided as part of this comment. You are advised to save the attachments to your local computer or a network share when prompted by your browser.

Comments Attachment: [Ken Fleeman.pdf](#)

Please contact me if you have any questions.

Sincerely,
Hayley Book

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PA Department of Environmental Protection
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March 5, 2014

Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

Dear Board Members:

I am writing to ask that the proposed revisions to PADEP's oil and gas rules not be finalized in their current form. I have witnessed firsthand the significant negative impact to industry while providing little or no added benefit to the environment. PADEP has not discharged its responsibility under the amendments to the Regulatory Review Act by Act 76 of 2012 to adequately assess the impact of the proposed regulations on small businesses. As Manager of Engineering for a family owned, independent Pennsylvania oil and gas company, I am directly responsible for valuation of company assets. I provided economic results of the cost of the expanded extra-regulatory Mechanical Integrity Assessment process to Scott Perry in November 2013. The real burden of \$10 per well per month, our actual cost of Mechanical Integrity compliance to date in 2013, modeled on 1379 *conventional* wells in which we own interests represented a net loss of 684,000 MCF equivalent production with a present value of \$1,098,000 dollars. Under what scenario is a million dollar report justifiable on 1300 wells? The same analysis, conservatively assuming \$100 per well per month for additional compliance demanded by Chapter 78, results in an estimated loss of 6,607,000 MCF equivalent. That present value is \$10,418,000 from the \$23,521,000 before income tax cash flow lost from just this small group of wells, which translates into Pennsylvania's forfeiting \$2,238,000 in future income tax revenue. Extrapolating that loss to all *conventional* wells in the state produces a huge number. Please remember that the value of a dollar lost is the same for *unconventional* operators. No wonder my employer made the difficult choice to eliminate five positions in Pennsylvania and direct to neighboring states several million dollars in capital historically invested annually in Pennsylvania.

Further, PADEP has not discharged its responsibility to openly incorporate stakeholders in the process. The repeated pattern of drafting and publishing new regulations with little or no stakeholder input and drafting of new de facto regulations within guidance documents and forms outside of the law must end. As a volunteer for the Pennsylvania Independent Oil & Gas Association (PIOGA) I have witnessed this numerous times, beginning with then-Secretary Krancer's "request" for "voluntary" restriction of water treatment options. The attempted drafting of new regulations via the Mechanical Integrity Assessment flowchart is the most recent egregious example. I have also participated in Technical Advisory Board (TAB) workgroups whose collective work and recommendations have been routinely ignored by PADEP in this draft of Chapter 78. Failure to follow legally required procedures should be sufficient grounds to reject this body of regulation.

PADEP has proposed significant revisions to the Chapter 78 regulations without the benefit of considering sound science. The regulations were drafted and published prior to the benefits of DEP's Water and NORM sampling results. Those efforts are presently incomplete with results presently in draft form. It would be prudent to wait until DEP completes its sampling efforts to compare the results to the proposed regulation revisions. Further, industry cited concerns to PADEP regarding the biased water sampling methods employed early in the study and the early refusal to split samples.

As a citizen of Pennsylvania, a property owner, a royalty owner and an industry employee, I beg of you to place no further unnecessary obstacles in the path of the conventional oil and gas industry. It seems that many policymakers and critics of our industry have forgotten, or ignored, that oil and natural gas are *private* property, not "Pennsylvania's" property (except for the oil and gas resources owned by the

State under state-owned lands). The oil and gas industry provides a service to the owners of this precious resource. Will no one take a stand to preserve the right to own and develop a mineral estate, whether owned privately or by the State? Our Supreme Court assumed the unprecedented role of fact finding and ignored 100 plus years of legal precedent in the recent Act 13 decision by referring to *all* natural gas resources as "public" resources. They also ignore their own precedent (the February 2009 *Huntley & Huntley* decision) that the legislature's power to preempt local municipality power impacts extends to the environmental impacts of our activities (the "how" of resource extraction). Municipalities at some point will have to assume liability for the taking of private mineral estates. Presently, with one very limited exception, Pennsylvania has no clear mechanism to pool acreage. That failing, coupled with the rush to regulate our activities via zoning, further erodes the private property rights of natural gas, oil and mineral estate owners. PADEP increasingly is abandoning its role of environmental steward and facilitator to our industry for one of political and environmental activism.

I have worked in the oil and gas industry for the last thirty-four years and represent the fourth generation of my family to do so in Appalachia. I am proud of my heritage and the meaningful contribution our industry brings to economic and national security. The contribution to quality of life is indisputable. Petrochemicals derived from oil and natural gas are the foundation of the pharmaceutical miracles that extend our lives. Plastics protect our foods and foams insulate our homes. Our industry lubricates and fuels the majority of products and mechanisms on the planet.

Twenty-six years ago I worked at a large independent company that was working even then with service companies to perfect hydraulic fracturing in the Devonian Shale of Eastern Kentucky and Western West Virginia. That work – right here in Appalachia – resulted in "greener" frac chemicals, improved safety and environmental procedures, and "lite" cements with the ability to limit natural gas migration. While the drilling and hydraulic fracturing of shale may be new to the citizens of Pennsylvania, it is not new to the industry. Many of the experienced experts from my generation are dispersed through Appalachia working for both operators and service companies. Coupled with experts and technology from the other shale basins, we have every expectation that oil and natural gas resources in Pennsylvania can be developed safely and with minimal environmental impacts. The present hysteria over "fracking" is a new form of politically driven hydrophobia. No chemicals are manufactured, packaged, labeled, transported or used without regulatory oversight under global standards. Further, Pennsylvania's current regulations received favorable review by STRONGER and are among the most stringent in the nation.

Our industry remains ready and eager to work with our communities and with our colleagues at PADEP to responsibly develop the resources that belong to Pennsylvania's citizenry and the State to benefit not only our community but our world. We only ask that the community, regulators and industry equitably prescribe to precedent and rule of law.

Please vote "no" to adopting these proposed rules unless they are substantially revised to reflect full consideration of the costs and benefits of the regulation on our industry.

Sincerely,
Kenneth J. Fleeman



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Burgettstown, PA 15021