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From: RegComments@pa.gov
Sent: Monday, March 10, 2014 3:08 PM
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Cc: ra-epmsdevelopment@pa.gov
Subject: Proposed Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites

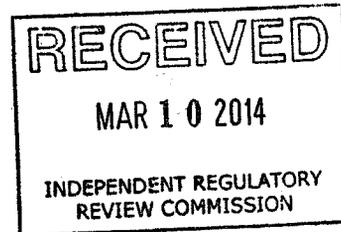


Re: Proposed Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites

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

Commentor Information:

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Comments entered:

EQB Hearing – Chapter 78 Oil and Gas Surface Activities – February 10, 2014 – Troy, PA - Testimony

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: [Scott Miller.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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Good Evening. My name is Scott Miller. I am a Community Relations Coordinator for WPX Energy in the Marcellus Basin.

WPX Energy is one of largest natural gas producers in the United States and is active in many of our nation's basins. We have been in the Marcellus Basin since 2009 and to date have drilled 100 wells in the Commonwealth. Many of our employees have over 30 years experience in the natural gas industry. WPX is founded on a set of stringent values and we want to be difference-makers in our communities and in the natural gas industry. Building relationships with a variety of stakeholders, while establishing and maintaining trust, is very important to us.

Our team of experts has been involved actively from the beginning of the public review of the Chapter 78 Regulations. Along with our trade associations, we have engaged with the DEP, DCNR, TAB, and all of the environmental working groups involved in this labor-intensive process. We respect and appreciate all of those who have given of their time, energy, and efforts in vetting the proposed regulations. I will only speak for a few moments this evening and WPX will submit a technical paper to the Board before the deadline.

Recognizing the voluminous nature of the Chapter 78 regulations, I will only make a few comments on the items we believe to be of the utmost importance.

Initially, Section 3215(e) of Act 13 requires the Department to develop regulatory criteria that protect **public resources** while ensuring optimal oil and gas resource development, and respecting oil and gas owner property rights. However, the proposed regulations in Chapter 78 Section 15 do not adequately implement or address these requirements – the regulatory criteria for conditioning a permit has not been provided, and the draft regulations only frame the Department's authority to implement the conditions. If industry is required to avoid or mitigate potential impacts to these resources, the criteria used to assess impacts must be established and provided.

In addition, potentially requiring industry to gain clearance for **Species of Special Concern** may significantly limit our development opportunities and/or create costly mitigation solutions, which would be in conflict with Section 3215(e) as it pertains to ensuring oil and gas development and property owner rights. If the Department's goal is to protect the Commonwealth's resources as they specifically relate to Threatened, Endangered or Species of Special Concern, then Industry has the right to know the locations of such resources in order to avoid or mitigate any potential impacts.

Another significant issue is **Water Replacement**. The main concern is the DEP proposes the industry "replace" a water supply to Safe Drinking Water Act (SDWA) Standards, or better, even when the results of Pre-Drill testing of the water supply show the water did not meet these standards in the first

place. There are many challenges in the Commonwealth in regards to private water wells – especially the lack of construction standards. Our experience with pre-drill testing, and several studies independent of natural gas development, demonstrate that a large number of private water wells are poorly constructed, many contain iron, manganese, coliform, and methane and many do not meet the criteria of the SDWA. Until the Pennsylvania legislature passes legislation to require property owners to properly construct private water wells, and ensure they meet the SDWA, it is unreasonable for the DEP to require the industry to restore a private water supply to better standards than originally existed. We are requesting that if the operator impacts a water supply, the DEP requires replacing the water supply to the pre-drill test results.

Regarding **waste and water management** at a well site, the natural gas industry has been “recycling and/or reusing” water and minimizing fresh water use for quite some time now, and unfortunately the new regulations are forcing operators to rethink this option. In order to increase the amount of water being reused/recycled in the Commonwealth, the Regulations need to provide an avenue for the operator, either through permits or DEP approvals, to document, move, or reuse water from one site to another. In addition, Oil and Gas Division must have its own regulations concerning water management, and not be conflicted with or confused with that of the Waste Management Division.

Regarding **Orphaned and Abandoned Wells**, identifying active, inactive, plugged, abandoned, and orphaned wells prior to hydraulic fracturing may be something that the industry can work with the DEP, but not to the level of the proposed regulations, as that may lead to non-ending obligations on behalf of the industry for wells that are not ours.

It is well known that the State Review of Oil & Natural Gas Environmental Regulations (STRONGER), a national non-profit organization charged with assessing states’ oil and gas regulations, reviewed Pennsylvania’s oil and gas regulatory program in May 2013 at DEP’s request. STRONGER released its report in September 2013 and found that Pennsylvania’s program “is, over all, well-managed, professional and meeting its program objectives.” STRONGER lauded the DEP on many of its initiatives and regulations. WPX implores this Board to recognize STRONGER’s assessment, and credits the DEP for employing STRONGER to review our environmental regulations in light of the natural gas industry’s operations and economic growth for all.

We thank you for your efforts and desire to continue to seek better and more efficient ways to regulate our industry and safeguard Pennsylvania’s environment. WPX Energy is also committed to this regulatory review process. We too appreciate and respect the communities in which we operate and are dedicated to protecting Pennsylvania’s environment. We look forward to continuing to work with the DEP and other interested parties to finalize these Chapter 78 provisions.

Thank you for your time this evening.