



March 12, 2014

Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8471

Members of the Environmental Quality Board:

The Western Pennsylvania Conservancy appreciates the opportunity to provide the following comments on the Draft Proposal for Chapter 78, Subchapter C for your consideration:

§ 78.15 Public Resources

- We recommend consideration of additional named Public Resources that have been designated through agency review and public processes including Exceptional Value and High Quality Waters, Wild and Wilderness Trout Streams, Exceptional Value Wetlands, and Pennsylvania Scenic Rivers as designated under the Pennsylvania Scenic Rivers Act of 1982.
- In light of modern technology and large-scale unconventional operations, we encourage the Department to also consider increasing the 200-foot radius currently utilized for many of the public resources listed.
- We recommend including in the Draft Proposal a definition of “discrete area” in §78.15(c)(4) and specification of who will make the determination.
- We recommend that the Draft Proposal include the Department’s consideration of the impact of a proposed well on a public resource and the requirement for the Environmental Quality Board to develop regulation criteria for the department to utilize for conditioning a well permit based on its impact to the public resources.
- We recommend that the Department expressly states that it has the sole authority to condition or deny a permit if it makes a determination that there will be “probable harmful impact” to a public resource.

§ 78.56 Temporary Containment

- In §78.56(a)(9), liners of the same type and quality required for the impoundments should be required to cover freeboards to minimize risk to the waters of the commonwealth.

§78.58 Onsite Processing

- We recommend that onsite requests to process waste from drill cuttings from the borehole be considered on a case-by-case basis so that site-specific conditions can be considered in determining the suitability for processing on site.

§78.59b Freshwater Impoundments

- We recommend pre-treatment standards for storage of “mine influenced water” in impoundments at least as stringent as those used for storage of wastewater to protect the waters of the commonwealth. Applying freshwater impoundment standards for storage of “mine influenced water” is unsuitable.

§78.64a Containment Systems and Practices at Unconventional Well Sites

- We recommend that leak detection systems be required in addition to any inspection or repair made after a leak is discovered.

§78.66 Reporting and Remediating Releases

- We recommend that the Department explain the basis and assumptions inherent in the defined term “reportable releases of brine” and other threshold releases and spills requiring notification including the request for supporting evidence to determine whether *de minimis* exemptions and thresholds are truly *de minimis*.

§78.69 Water Management Plans

- We recommend that the Department provide detail on the criteria it will use, including information, monitoring and reporting requirements, to assure operator demonstration of compliance with the standards provided.
- At a minimum, we recommend the requirement of compliance with the Susquehanna River Basin Commission’s Low Flow Protection Policy as a condition to approval of a Water Management Plan in the Ohio River Basin.

§78.52/78.73 Pre-Hydraulic Fracturing Assessment

- We recommend expansion of the provisions to include the requirement of an investigation of all existing active gas wells that penetrate the impacted strata as well as all known geologic faults and natural fracture zones that transect the impacted strata. It is important to eliminate the risk that the hydraulic fracture treatment may communicate with the wells and result in protected water contamination or pose other environmental, health or safety risks.

§78.123 Logs and Additional Data

- We recommend disclosure of the results of the pre-hydraulic fracturing assessment and the ultimate design used for hydraulic treatment to prevent fracturing fluids or hydrocarbons from migrating vertically or coming into contact with any strata that contain protected water.
- We recommend that the Department require disclosure within 30 days of well completion the results of baseline water testing.

For Additional Consideration:

Setbacks from Waters of the Commonwealth

- We recommend the establishment of setbacks at a minimum of 300 feet from the wellbore from any stream, water body, or wetland and a minimum of 100 feet from the edge of the disturbance of the well site.
- For High Quality and Exceptional Value streams, we recommend the requirement of additional setbacks or best management practices as determined necessary by the Department to protect existing high value water quality.

Closed-Loop Systems

- We recommend including technical standards for closed-loop systems to encourage and enforce the use of closed-loop systems where conditions merit and where it would result in reducing environmental impacts.

Again, we appreciate the opportunity to provide comments on the Draft Proposal and we will continue to consider the provisions and monitor the proposal as it moves through the rulemaking process.

Sincerely,



Thomas D. Saunders
President and CEO