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Cooper, Kathy

From: RegComments@pa.gov
Sent: Thursday, April 09, 2015 11:27 AM
To: Environment-Committee@pasenate.com; apankake@pasen.gov; IRRRC;
RegComments@pa.gov; eregop@pahousegop.com;
environmentalcommittee@pahouse.net; gvitali@pahouse.net
Cc: ra-epmsdevelopment@pa.gov
Subject: Comment notice for - Advanced Notice of Final Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites (7-484)



Re: Advanced Notice of Final Rulemaking - Environmental Protection Performance Standards at Oil and Gas Well Sites (7-484)

The following comments have been received regarding the above-referenced advanced notice of final rulemaking.

Commentator Information:

Juliann Sepesy
private landowner in Pennsylvania (julsepesy@yahoo.com)
2551 Bigger Road
Bulger, PA 15019 US

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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: [4-7-2015 Comments on Oil and Gas Ch 78 Rules.docx](#)

Please contact me if you have any questions.

Sincerely,
Patrick McDonnell

Patrick McDonnell
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PA Department of Environmental Protection
Rachel Carson State Office Building
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Harrisburg, PA 17105-2063

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Written Comments on the revisions to the draft final rulemaking proposal for Environmental Protection Performance Standards at Oil and Gas Well Sites;

- 1) Section 78.15 (d) The PNHP consultations in this section only identifies “well site or access road” and does not include the entire area of disturbance or impact. An actual well site could be easily identified on the PNHP investigation as being limited literally to one (1) acre of ground; however the actual land impact area required to clear, grub, place topsoil, grade, install erosion controls, construct temporary storage facilities, on-site borrow pits, freshwater impoundments, etc. is actually far larger an impact than the “well site or access road” reference in this section. To properly clarify, it is recommended to address and have the applicant submit a PNHP investigation for ALL proposed permitted/impacted property, land clearance/disturbance, and/or total parcel of ground directly related to the construction and operation of the proposed well site, access road, and all related support facilities.
- 2) Section 78.15 (f) (2) The requirement of the applicant to notify the public resource agency at least 15 days prior to submitting a permit application to the Department and the 15 days that the resource agency has to respond to the Department, in writing, is too short a time window to accurately respond. I do not find that 15 days is adequate time for a resource agency to be able to accurately respond to the Department. At minimum, and more in line with PA Act 14, 30 days could be provided in order to respond.
- 3) Section 78.15 (f) (2) The reference to submission of a ‘plat’ identifying the proposed location of the well, well site and access road to the public resource does not accurately give the public resource a clear description nor complete plan of what is proposed at a well site. A ‘plat’ plan, by definition only requires that it is a map, drawn to scale, showing the divisions of a piece of land. For clarity ‘plat’ could be revised to ‘complete site plan’ that could accurately provide the public resource with all of the information about the well site to be able to provide feedback to the Department. A complete site plan should include all relevant features of the project including to, but not limited to, the proposed limits of earth disturbance, temporary or permanent drainage features, temporary or permanent impoundments, tank locations, security trailer and or temporary employee housing information, site lighting requirements, access locations, topsoil stockpile areas, etc.
- 4) Section 78.15 (f) (2). I could not find an actual definition of ‘public resource’ to who the proposed applicant is to submit the well site information to for comment to the Department. Does the Department intend to provide a clear definition of public resource? Would this include municipalities and county planning offices? School districts? Watershed Groups? Public water facilities? Local, county and state parks and recreation departments? For clarity, the Department should clearly identify who are the intended ‘public resources’ that the applicant is to submit information to regarding their project and who will have the ability to provide comment to the Department.
- 5) Section 78.17 Permit renewal. The 15 calendar day window for the applicant to provide a permit renewal prior to the expiration of the original permit seems extremely short for the Department to be able to accurately assess if their renewal is complete and able to be processed. The permit renewal also do not reference notification requirements by the

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applicant to seek comment from the public resource again, nor conduct a new PNHP investigation, nor does it address if there were previous compliance issues for the permit or applicant; all which should be taken into account on if a permit is renewed.

- 6) Section 78.56 (a) (2) The three (3) business days of notification to the Department for the assembly of an on-site modular above ground storage structure doesn't appear to be enough time for the Department to accurately determine if the site is in compliance, is properly prepared to assemble the proposed structures, etc. Is there any pre-authorization, site inspection, etc. needed for an applicant to use a structure of this type? In addition; is there any maximum size of these on-site modular storage structures? 250,000 gallons, 500,000 gallons? Any size or capacity limitation placed on each structure/well site? Any location that these modular above ground storage structures and/or constructed pits cannot be installed? Outside of a Floodway and/or Floodplain? They need to be X-feet from residence, building, utility line, etc.? Are there slope limitations? In addition; there doesn't appear to be any reference to a specific requirement(s) for the applicant/owner/operator to monitor, inspect and remediate for leaks, spills, contamination in this section for these pits/tanks/modular above ground storage structures.
- 7) Section 78.56 (a) (11) The determination of seasonal high groundwater table should be made by and certified by an engineer, not a soil scientist or other similarly trained person. The engineer should provide a certification with P.E. seal and signature for this determination.
- 8) Section 78.56 (a) (12) This item indicates and lists only stormwater and excludes surface water. Both should be addressed.
- 9) Section 78.56 (a) (16) The three business day notification of installing the pit liner to the Department is incredibly short if the Department has any intent of inspecting or approving the site prior to liner installation. What is the Department's intent?
- 10) Section 78.56 (a) (17) There is not any reference to any requirement for spill or leak containment or double wall construction.
- 11) Section 78.57 (c), (1), (2) (ii). The 100 feet away from a stream, wetland, or body of water doesn't appear to provide an adequate buffer or protection zone from a 250,000 to 500,000 gallon minimum capacity. In the event of a leak or spill, there would not be adequate land area to construct a containment location, sump, or erosion control prior to impact to the receiving stream, wetland or body of water. The 100 feet buffer should be increased to a minimum of 300 feet.
- 12) Section 78.57 (c), (1), (2) (x) Surface water vs. stormwater. This section is not consistent with previous sections. Both surface and stormwater should be addressed in all sections.
- 13) Section 78.57 Has the Department taken into account the natural evaporation of contained, open topped, 250,000 to 500,000 gallon brine filled pits on the local air quality, particulate collection in surroundings that could contaminate Commonwealth waters, impact habitat, and potentially cause harm to the environment? This section does not limit the size of these brine filled pits, thus they could be in excess of several acres which certainly impacts the surrounding environment, impacts habitat and would certainly lead to particulates being evaporated and carried off-site. How is this addressed in these new regulations?

- 14) Section 78.58 Does the Department take into account an applicant's previous compliance record and compliance history? This is not clear in these proposed changes in any of these sections.
- 15) Section 78.59 (e), This section does not specify the minimum number of readings that are required to document the season high groundwater table levels. It also does not specify a minimum length of time that is required for the documentation. 1 week? 1 month? 1 year? The operator can effectively take 2 readings, 2 weeks apart and submit the documentation supporting this and establish the seasonal high water table. Minimum standards should be provided and listed for this important determination in this section as well as all related sections.
- 16) Section 78.59 (f). It is unclear as to why the Department would allow an applicant to file for a 2 year restoration request after an impoundment is no longer needed or will be used. Two years is a very long time to leave an impoundment open after the site will no longer have security, activity or a need for a very large, un-guarded, open body of water. Two years seems excessive after the well is no longer serviced by the impoundment.
- 17) Section 78.59 (h) This section indicates the Department may require the operator to test water sources proposed to be stored in freshwater impoundment prior to storage. Taken into account that these impoundments are considered and titled freshwater, that they are massive in size containing 200,000 gallons of water the Department should certainly mandate that ALL sources of water be tested prior to being stored in them and this testing information should be required for the permit application to be complete.
- 18) Section 78.59 (c),(6) The 500 feet minimum distance from private water supplies should be increased to at least 1000 feet considering the massive size, capacity and potential for impact to private water supplies that these centralized impoundments have. Private water supplies could be private wells for homeowners, private springs for farmers, etc. Construction and operation of these massively large centralized impoundments containing 250,000 to 500,000 + gallons of water certainly can and will impact the surface and ground water sources of the private landowner unless these features are far enough away so adequate infiltration, runoff and groundwater recharge can maintain supply.
- 19) Section 78.59(e), (3) A great deal of detail is provided in the leak detection system and zones, which is important and needed, however there is no reference or requirement for the sump pumps or collection system to have an audible alarm when a leak or failure is detected. Can an audible alarm be added (as a minimum measure) for ALL leak detection systems for these very large facilities?
- 20) Section 78.59(f) (1) Hydrogeologic investigation standards section. This section is vague in providing the minimum size of investigation required to be performed. It doesn't state if it is within 10 or 1000 feet of the well pad, if the investigation should be upstream or downstream or provide any minimum area. A minimum size of an area or boundaries should be provided for this vital investigation. In addition – this section does not provide a minimum length of time or number of samples required for the water quality testing, groundwater elevation studies or locations. It is possible the investigation can be limited to within 10 feet of the site, be only 6 months long and have little to no actual valuable data collected to evaluate the actual site and

surrounding conditions. Much more direction and detail is needed for this section in order to be able to protect the Commonwealth waters, private water supplies and the environment.

- 21) Section 78.59 (f) (5) This section doesn't specify which types of passive treatments are acceptable, nor does it provide sizes, types, quantities or limitations of the passive treatments. The only condition is that they may not alter the supply of receiving water bodies or downgrade uses. A passive treatment could be a 10' x 20' rock channel and after installation it is too difficult to determine or more importantly prove alteration, let alone find a solution. It may be helpful to provide additional definition to the passive treatments allowed as well.
- 22) Section 78.60 (7) Discharge requirements. This section only specifies that the land application can be within 200 feet of a water supply or within 100 feet of a stream, watercourse, wetland or body of water. This distance should be at minimum doubled or tripled to take into account natural riparian and ecological areas that could be impacted if treatment options are required for false negative results, thus causing land applications to be contaminated and thus treatment required. There would also need to be available space to installed erosion control measures that would impact additional land. Allowing ANY land applications within 100 feet of a stream, wetland or water body, regardless of water quality or designated uses, is far too risky/close in the event there is an issue or the need for remedial work to be done.
- 23) Section 78.61 (a) (3) and (b) (3). The listed and permitted distances are far close for ANY disposal of drill cuttings considering the water supply, streams, wetlands, or bodies of water that would be impacted and harm caused to the Commonwealth waters, environment, habitat and private land owners who's water supply was contaminated. These distances should, at minimum, be doubled or tripled and water designation and uses be considered.
- 24) Section 78.62 Disposal of residual waste pits section. This section also allows and will permit any size pit including pits with contaminated drill cuttings be disposed of within 200 feet of a building, 100 feet of a stream, water body or wetland, 200 feet of water supply and there are no provisions for monitoring (short or long term), encapsulation, deed restrictions on the actual pit locations or provisions to inform the surrounding landowners. The disposal of residual waste pits that may or may not contain contaminated drill cuttings should at very bare minimum require a deed restriction on their exact locations, sizes, etc. to allow for their locations to be identified 5, 10, 25, 50 years, etc. Currently in other programs, deed restrictions are required for stormwater best management practices, flowage easements, mitigation measures, etc.
- 25) Section 78.65 (b) (2) Site restoration activities should not be allowed to be extended for up to two years. Restoration activities should be required to be conducted and completed within 30 days after site is completed as with other chapters of the PA Code.
- 26) Section 78.65 (g) This section doesn't appear to require that the well operator to inform the landowner PRIOR to disposing of drill cuttings or residual waste at the well site prior to these activities being conducted. It only states that the well operator will forward a copy of the site restoration plan after disposal. The landowner should be made aware and have the option to provide his or her opinion of where and if they will accept the drill cuttings or residual wastes on their property for eternity.
- 27) Section 78.66 (a) This section does not include notification for areas that may be located outside of the 'on or adjacent to the well site or access roads". If a release occurs and remediation work

is required for the release along the pipeline(s) right of way, in-route to or from the well site, on the road to or from the well site, etc. PROPER and PROMPT notification should include the local municipality, local 911 operations, and private and public water well owners within 1000 feet of the release to protect the environment, health and safety of the Commonwealth of PA.

- 28) Section 78.68 Section for oil and gas gathering lines. There is no reference or requirement for re-vegetation, testing of line precautions, minimum of maximum depths, placement of permanent markers or protecting from unauthorized access or acts. These references should be addressed.
- 29) Section 78.68a. This section provides for the horizontal directional drilling for oil and gas pipelines does not reference or require obtaining a PADEP General Permit #5 and the permit applications minimum requirements and conditions nor does it address minimum monitoring requirements for pressure and loss of drilling fluids.
- 30) Section 78.68 (b) (e), This section provides for the temporary pipelines for oil and gas operations, indicates that the shut off valves should prevent 1000 barrels of fluid from being lost. 1000 barrels of fluid is extremely excessive. The standard capacity of a 'barrel' is 55 gallons. If the section is not revised each leak between shut off valves on a pipeline which could travel more than 1000 miles could release 50,000 gallons. The shut off valve placement, description, and minimum allowable release is extremely vital in protecting the environment, and the health and safety of the state. 100 barrels, although not ideal, would be release that could be more effectively and completely cleaned up.
- 31) Section 78.68 (b) (g). This section should address pressure testing after the pipelines has been moved, altered or repaired. An industry standard is to pressure treat after a pipeline is moved or repaired to re-test the validity of the line.
- 32) Section 78.70 (c), Reports should be submitted on a six (6) month basis to be able to effectively monitor the rates, application, slope limitations, determine compliance, review locations, etc. In addition, this section does not reference compliance history impacts to being able to spread road brine. If an applicant has past compliance problems or issues with regulations or developed pollution problems by spreading brine fluids, they should not be able to spread brine until they can demonstrate a history of compliance.
- 33) Section 78.303 Subchapter "G" under Bonding Requirements. The publicized dollar amounts placed on the well sites and activities required for well sites by the Oil and Gas industry are well known and can be easily investigated. The price tag, if there were such a thing, associated with the well site development is upwards of more than a million dollars pre site. Why would the PADEP ONLY require a \$2,500 bond for a single well and allow a \$25,000 blanket bond on multiple well sites? If this bond is to be viable for any compliance, clean up, closure, remediation, clean up, stabilization wouldn't it be intelligent to require a bond that would be based on a real life cost estimate to actually do the work that would be needed? Perhaps a tiered bond? The previous mining bonds barely cover the sins of the past, why would the Department enter into additional liability and inability to effectively bond oil and gas developments?