



SWEPI LP

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May 18, 2015

Department of Environmental Protection Policy Office  
400 Market Street  
P.O. Box 2063  
Harrisburg, PA 17105-2063

**Re: Comments on Advanced Notice of Final Rulemaking, 25 Pa. Code Chapter 78a,  
Environmental Protection Performance Standards at Unconventional Gas Well Sites:  
45 Pa.B. 1615 (Apr. 4, 2015)**

Dear Sir/Madam:

This letter serves as SWEPI LP's (Shell's) written comments on the revisions to the Environmental Protection Performance Standards at Unconventional Gas Well Sites (25 Pa. Code Chapter 78a) as announced in the Pennsylvania Bulletin on Saturday, April 4, 2015.

Shell commends the Department of Environmental Protection's (DEP) efforts throughout this rulemaking process for working with a broad stakeholder group in order to address many of the issues related to Chapter 78.

This proposed regulatory change will require DEP to develop a number of new forms. Shell recommends that DEP make all new forms available to the public for review and comment, per Sec. 5(a)(5) of the Regulatory Review Act, prior to finalization of this regulatory package.

**§ 78.a.1. Definitions. – Certified mail** – Shell commends DEP for expanding the options of verifying document delivery.

**§ 78.a.17. Permit expiration and renewal.** – Subsection (a) defines “due diligence” as drilling a well to total depth within 16 months of issuance of the well permit. Since unconventional drilling operations typically entail multiple rigs drilling multiple wells on a single pad, a more reasonable timeframe for “due diligence” is 24 months from well permit issuance. Shell supports the amendment to Subsection (b) which extends the timeframe for well permit renewals from 1 to 2 years.

**§78a.51. Protection of Water Supplies** – The current interpretation by DEP of subsection (d)(2) regarding water quality is that the post incident/post treatment water quality must meet the complete Safe Drinking Water Act (SDWA) list of parameters. This list includes a large number of constituents that are unrelated to oil and gas activities. Similar to other industries and

environmental programs, DEP should develop a specific subset of parameters from the SDWA list that must be met to deem the replacement/restoration of the water supply adequate.

In addition, this subsection also indicates that if the water quality is of higher quality prior to the incident then the restoration/replacement of the water supply must meet “pre-pollution” quality. The data from a water source can be highly variable and collecting one or two samples from a water source does not necessarily establish “pre-pollution” water quality for a number of reasons including:

- Lack of water well construction requirements/standards creates the potential for contamination due to surface water infiltration and increases in turbidity and common ions such as iron and manganese due to caving of the uncased wellbore.
- Natural variability due to seasonality, variability of water use prior to sampling and variable yield from multiple and different water bearing zones
- Inherent variability in sampling and analytical methods
- Other man-made influences such as the use of salt from road treatment during winter months

Strict interpretation of the word “meet” would not allow for the flexibility of natural variability in a number of key constituents such as chloride, iron, manganese and methane which has been well documented through the pre-drill survey. Furthermore, trace constituents often detected at low parts per billion concentrations and well below their respective drinking water standards can vary slightly for any of the reasons noted above and therefore could result in unrealistic treatment requirements with no added protective benefit to the public. For the above reasons, it is strongly recommended that the word “meet” be changed to “is comparable to” in the last sentence of this paragraph to provide the latitude for scientific interpretation by DEP, home owners and operators when meeting “pre-pollution” water quality conditions.

Based on the complexity of this regulation, it is also strongly recommended that a technical subcommittee be established to develop technical guidance. This subcommittee should include a cross section of technical experts from DEP and the oil and gas industry.

**§ 78.a.56. Temporary storage** – Shell strongly supports the elimination of pits as an option under this subsection and does not recommend their use under any circumstance for the storage of contaminated drill cuttings or fluids.

**§ 78.a.57. Control, storage and disposal of production fluids.** – Subsection (i) would require operators to report any tank deficiencies to DEP within 3 days of the inspection and remedy prior to continued use of the tank. Does this mean that tanks will need taken out of service for any deficiency or only those that could result in a leak? It is recommended that DEP clarify “deficiency” in this subsection.

**§ 78.a.57a. Centralized tank storage.** – Subsection (n)(2) would require restoration within 9 months of completion of drilling the last well serviced by the centralized tank storage site. Due to the numerous closure requirements in this subsection, a more reasonable timeframe for restoration is” within 2 years of completion of stimulation of the last well serviced by the centralized tank storage site.”

**§78a.58. Onsite processing.** – Subsection (d) would require operators to notify DEP prior to conducting activities that would be exempt from obtaining DEP approval. These activities typically take place during multiple phases (drilling, completions, flowback) of well development and would be a burden on the operators and DEP to notify each time an activity is commenced. DEP should consider removing this notification requirement or allow operators to submit one notification to cover all phases of well development.

**§78a.59b. Freshwater impoundments.** – Subsection (g) states that freshwater impoundments shall be restored within 9 months of completion of drilling. This does not provide a suitable amount of time since freshwater impoundments are mainly utilized for well stimulation and well stimulation does not always occur immediately following drilling. It is recommended that the restoration timeframe be changed to “within 9 months of completion of stimulating the last well serviced by the impoundment.”


**§78a.59c. Centralized impoundments.** – Shell supports the elimination of centralized impoundments as an option in this regulation.

**§78a.66. Reporting and remediating spills and releases.** – Subsection (c)(2)(iii) eliminates the “alternative remediation” option currently available under DEP Policy: “Addressing Spills and Releases at Oil and Gas Well Sites or Access Roads” (Spill Policy). Shell believes that the policies and procedures outlined in the current Spill Policy are effective at addressing spills and releases and that this subsection should reflect the Spill Policy, including the option to remediate spills utilizing the alternative remediation method.

Please note that Shell generally endorses additional comments submitted by the American Petroleum Industry with respect to the proposed regulatory package.

Please contact me if you have any questions or require further clarification or discussion. Thank you for this opportunity to submit comments on this very important regulatory process.

Sincerely,



Michael DeWitt  
SWEPI, LP Appalachia  
General Manager