

3042

Cooper, Kathy

**From:** RegComments@pa.gov  
**Sent:** Tuesday, May 19, 2015 5:49 PM  
**To:** Environment-Committee@pasenate.com; apankake@pasen.gov; IRRC; 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.**

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 IRRC  
 2015 MAY 20 AM 8:47

Commentator Information:

Donna Towner  
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Comments entered:

Thank you for the opportunity to respond to the Final Draft Rule for revisions to Chapter 78 Subchapter C, regulations governing oil and gas operations. Many of my colleagues have already eloquently expressed their concerns whether all stakeholders have been heard during this process and the significant economic impacts these regulations will have on the traditional, small conventional operator and the industries they support.

The comments below attempt to address the specific changes to Chapter 78, C. The separation of conventional and unconventional regulations are decidedly applauded, however the layout of the draft rule without indentations was most challenging. Part of my job entails interpreting regulations for our company in order to assist with planning and development in the short and long term. The comments below are section specific and meant to raise questions in the Department's review as to the clarity and feasibility of the regulation changes. In addition, to assist in plans for guidance documents to follow.

**78.1 Definitions:**

**Other Critical Communities**

Species that are not listed by a public resource agency sounds like it would include species outside of a PNDI review. If so, where does an operator go to obtain this information? What is the definition of a "significant non-species resource", "significant natural feature", "significant natural community", and where do operators obtain this information for project planning?

**Water source**

(D) Why does this definition include "waters that are used for drilling and completing in an unconventional formation"?

### 78.15 Application requirements

(f) ...construct a well site...that may impact a public resource in paragraph (1)...

(1) (iv) "In a location that will impact other critical communities".

Can this public resource be better defined (see comment under Definitions)? This requirement is extremely vague and does not give the operator direction with regards to determining what the other critical communities might be an exposure? How do we determine if we might impact them? What is the definition of impact? Are there distance restrictions that might be applied depending on the critical community? How does an operator plan future development without such information?

(vii) "Within an area designated as a wellhead protection area as part of an approved wellhead protection plan"

What is this? It is not defined in Definitions.

(2) "The applicant shall notify the public resource agency..."

"From the date of notification, the PRA has 30 days to provide written comments to the Department..."

Is this 30 days from the date notification was sent by the operator? If so, it should state that to be clear. So as not to be confused with the date the PRA received the notification.

(g) How does the Department define "probable harmful impact to a public resource"?

78.51 Protection of water supplies – there are two significant issues in this section – the investigation process and quality of restoration.

With regards to diminution, it has been explained by the Department that there is no quantifiable method for determining a decrease in supply. How does the Department determine if a water purveyor is suffering from a reduction in supply? How does the Department determine that the suspected diminution was caused by oil and gas operations and not by other environmental factors including seasonal changes? There is no definition for diminution provided hence, this part of the regulation is not clear.

In the latter portion of section (c), "... the Department will issue orders to the well operator...", the details of the investigative process are vague. One suggestion might read that "...the Department will issue written orders detailing the complaint and the basis for the determination within 5 (or other appropriate time frame) days of the determination to the well operator..." Adding these additional details to the regulation allows for a clear understanding of the problem and appropriate solutions and promotes a quicker resolution.

With regards to the restoration, the regulation should remain that any affected water supply should be restored to pre-drill sampling standards. Under (2) Quality, it would be almost impossible due to the many variables that could possibly affect a private water supply, that the conventional operator would be able to bring a water supply to meet the standards established under the PA Safe Drinking Water Act. For example, we have pre-drill results for water supplies in Venango County that would currently not meet this standard. There are active farms and unclaimed strip mines within a ¼ mile from some of these supplies, not to mention the possibility of industrial waste. These pre-drill samples are not atypical of many water supplies in western PA and have reflected this poor quality for decades.

78.52 (a) "A well operator who wishes to preserve its defense... that the pollution of a water supply existed prior to the drilling..."

Why is this still in the regulation when section (2) regarding quality states that regardless of prior pollution, the water supply must be brought back to safe drinking water standards? There is no protection for an operator, if section (2) is to remain.

### 78.52a (AREA OF REVIEW)

The operator of a vertical oil well that is to be fraced..."shall identify the location of active, inactive, orphaned and abandoned wells within 500 feet of the well bore"...

(b) (1) "Conducting a review of the Department's well databases and other available databases". "Other available databases" is too vague. Can the list of required databases to be reviewed be listed?

(2) "Conducting a review of historical sources..." Again the regulation is not clear. What type of historical sources? Where does an operator go to conduct this review?

(3) "Submitting a questionnaire... to landowners" There are several questions to consider. Will the Department be providing guidance and a form for this questionnaire? Does it need to be sent certified? How long does an operator wait for a response? Is the operator responsible for any errors or omissions in landowner's response?

(c) (3) "Monitoring plan..." Will the Department be issuing guidance with regards to the requirements for such plan? Will annual inspections suffice, for example?

78.55 With regards to PPC plans... (b) What is a "pressure barrier policy" as it relates to conventional well operations during drilling or after in the production phase? Will this be defined?

Again, thank you for the opportunity to provide feedback.

Sincerely,

Donna S. Towner  
Operations Analyst

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No attachments were included as part of this comment.

Please contact me if you have any questions.

Sincerely,  
Patrick McDonnell

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