



PENNECO

PENNECO OIL COMPANY

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PA DEP Policy Office
400 Market Street
P.O. Box 2063
Harrisburg, PA 17105-2063

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RE: Comments on Draft Final Rules – Proposed Amendment to 25 PA Code Chapter 78, Subchapter C

To whom it may concern:

Penneco Oil Company is a family owned and operated independent oil and gas producer based in Delmont, PA operating more than 970 conventional wells primarily located in the southwestern region of the Commonwealth. As recently as last year, Penneco employed 60 workers behind the desk and in the field. However, numerous challenges over the last several months have severely impacted our viability causing us to halt exploration, reduce our staff by 23%, and reassess our longstanding business model. The factors most responsible for our crisis are the price downturn of energy commodities and the heightened regulatory scrutiny from exploration through production. This is the first time in my 30 years with Penneco that we have not had a drilling program. And frankly, with the prospect of additional regulatory expectations looming, the light is barely visible as we peer into the darkness that has become our operational future in PA.

It is our opinion that the proposed Draft Final Rule will push the limits of feasibility beyond our reach while providing no real, meaningful benefit to the environment. It seems that the magnitude of the stakes would justify a more transparent process of rulemaking rooted in empirical science and demonstrable necessity.

However, for the sake of participating in the afforded process, Penneco respectfully submits the following response to the Final Draft Rules as proposed regarding conventional operations.

Regarding Definitions (§ 78.1) we would like to highlight a few points of potential irritation.

Approximate original conditions – Reclamation of the land affected to preconstruction contours so that it closely reasonably resembles the general surface configuration of the land prior to the construction activities and within the context of operational necessity...

The word ‘closely’ leaves far too much interpretational latitude favoring the whim of the uninitiated. The language should favor the experiential context of the producer and their interpretation of the requisite space to operate.

Gathering pipeline – A pipeline with a minimum diametric measurement of 8" and a minimum Right of Way width of 50' that transports oil, liquid hydrocarbons or natural gas from individual wells to an intrastate or interstate transmission pipeline.

The added reference to the specific dimensions is consistent with the 2012 *Report to the General Assembly on Pipeline Placement of Natural Gas Gathering Lines*.

Other Critical Communities – The term shall mean:

(1) Plant and animal species that are not listed as threatened or endangered by a public resource agency, including:

(i) Plant and animal species that are classified as rare, tentatively undetermined or candidate

(ii) Taxa of Conservation Concern

(iii) Special Concern Plant Populations

The criterion for inclusion is far too vague and general broadening the likelihood of arbitrary actuation. We should require a detailed accounting of how the critical community candidates are brought forth and where the public can follow the scientific peer review communications.

***PCSM plan – Post-construction stormwater management plan* – The term as defined in § 102.1 (relating to definitions).**

The §102.1 definition intimates a construction magnitude that is characteristic of unconventional development and far more expansive than conventional site construction. For this reason, it (as well as PCSM) should be deleted from the definitions listing related to conventional operations.

Residual waste – The term as defined in § 287.1 (relating to definitions).

The § 287.1 definition makes no specific reference to oil and gas operations. Under what classification would oil and gas operations fall for the sake of applicability and enforcement?

Regarding Protection of Water Supplies (§ 78.51) and the quality (d) (2) of a restored or replaced water supply, the requisite for restoration should never exceed the Pennsylvania Safe Drinking Water Act standards regardless of the pre-existing quality nor should it be the default restoration standard for pre-existing supplies of lower quality than SDWA. The pre-existing baseline should be the standard of restoration quality in instances of a water supply with a quality lower than SDWA.

Regarding Area of Review (§ 78.52a), it is unclear whether the expanse of the requisite surface reconnaissance is 1,000' centered over the horizontal well bore or if it is intended to represent 1,000' from the path of the lateral in each direction. It seems, in the context of conventional exploration, that 1,000' centered over the horizontal wellbore (ie. 500' from the path of the lateral in each direction) would suffice.

There has been no questionnaire template presented as part of the rulemaking affording operators the chance to review and comment on the language and the scope of inquiry.

It is also unclear what will be acceptable “proof” that a questionnaire has been submitted to a landowner in any number of scenarios resulting in a questionnaire that is not completed and returned. Penneco believes that due diligence communication and field visits with property owners whose surface is in the area of review will be far more productive than regulating the process using questionnaires. The magnitude of the stakes compels operators to do no less.

There is no guidance regarding the monitoring plan and the proposed expectations of the Department. It is Penneco’s opinion that the magnitude of the stakes and current regulations will compel operators to formulate their own monitoring plan and execute it without regulatory paperwork.

Regarding Temporary Storage (§ 78.56) and the >1,000 square feet actuation footprint necessitating a 2 to 1 slope, the Department is essentially mandating a much larger location footprint to accommodate the drill cuttings and fluid returns. This will both displease landowners and increase the cost of exploration resulting in a feasibility tipping point. If the pit footprint could be enlarged to 2,500 square feet before the 2 to 1 slope actuation, this would permit the conventional operators to continue to appease the landowners while efficiently managing their drilling returns.

Regarding Control, Storage and Disposal of Production Fluids (§ 78.57), to require additional, monthly documentation on Department forms is an unnecessary burden of record keeping placed on the operators. Most wells are visited multiple times during a month and any sign of potential appurtenance failure is remedied in the course of best management practices. A more practical solution would be for the operators to make monthly inspections as part of their routine maintenance and record keeping and submit a permanent inspection record to the Department in an added subject column (Tanks) in their annual Mechanical Integrity Assessment submission.

Regarding Centralized Tank Storage (§ 78.57a), this section should probably be removed from the conventional regulations since the scenarios of applicability are virtually nonexistent.

Regarding Reporting and Remediating of Spills and Releases (§ 78.66), the reporting threshold of 5 gallons is far too stringent and burdensome. The remediation expectation should remain regardless of the amount, but the threshold for reporting should be, at the least, one barrel (42 gallons).

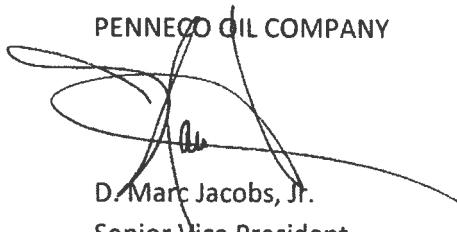
Regarding Well Record and Completion Report (§ 78.122), because the primary purpose of the monitoring plan is to avoid communication with existing wells proximate to the location of a vertical well or the path of a horizontal well during the hydraulic fracturing phase of completion, the logical place for this certification is on the Completion Report [(b) (10)] rather than the Well Record [(a) (14)].

While Penneco is appreciative of the Department’s call for comments, it is our opinion that the requisite legal process has been circumvented and that the Department has not demonstrated why conventional operations need new regulations, what measurable benefit the proposed rules will have

on the environment, and how the amendment will impact the many small businesses that constitute the independent oil and gas industry in Pennsylvania.

Penneco would like to respectfully recommend that the Department leave the current version of Chapter 78 as the valid compliance document for conventional oil and gas operations in the Commonwealth until such a time that the advance of proposed change can be empirically justified and carried out under the authority of absolute, legal acquiescence to due process.

Sincerely,

PENNECO OIL COMPANY

D. Marc Jacobs, Jr.
Senior Vice President

Cc: Scott Perry – Technical Advisory Board
Mike Turzai – PA State House Speaker