



DATE: June 28, 2013

SUBJECT: July 16, 2013, Environmental Quality Board (EQB) Meeting

TO: EQB Members and Alternates

FROM: Michele L. Tate
Regulatory Coordinator

The next meeting of the EQB is scheduled for Tuesday, July 16, 2013, at 9:00 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The Board will consider the following item:

1. Proposed Rulemaking: Oil and Gas Well Fee Amendments (25 Pa Code Chapter 78): The Commonwealth's Oil and Gas regulations at *25 Pa Code Section 78.19(f)* require the Department of Environmental Protection (DEP) to provide the EQB with an evaluation of the permit fees established in Chapter 78 and "recommend regulatory changes to the EQB to address any disparity between the program income generated by the fees and the Department's cost of administering the program with the objective of ensuring fees meet all program costs and programs are self-sustaining." This evaluation is required at least once every three years. The EQB most recently amended the Chapter 78 oil and gas well permit fees in 2009 when it increased permit fees from a flat fee of \$100 to a sliding scale based on the length of the well bore drilled.

In conformance with *25 Pa Code Section 78.19(f)*, DEP has completed a 3-Year Report of the adequacy of the fees assessed in Chapter 78. Through that analysis, DEP has concluded that anticipated revenue to support the program based upon current permit fees is not adequate to meet future program operations, including permitting, inspection, enforcement and information technology needs. Since 2010, the Department has experienced a 22% decrease in the number of unconventional well permit applications received; however, the number of Marcellus Shale wells drilled since 2010 has increased by 23.5%. This increase in workload coupled with declining permit revenues is creating a situation where the incoming permit revenue is insufficient to cover the current operational costs of the program. This trend is expected to continue as the Oil and Gas Program is projected to have increasing expenditures with declining revenues in future fiscal years. For example, at current permit fee and expenditure levels, and with projected permitting levels, DEP expects a \$1.8 million deficit of the Well Plugging Fund by the end of FY 2013.

The proposed rulemaking increases the well permit fee to provide adequate revenue to support the ongoing operations of the Commonwealth's Oil and Gas Program as well as to meet future program needs, including permitting, inspection, enforcement and information technology needs. The rulemaking revises the current sliding scale permit fee structure by establishing a flat fee of \$5,000 for nonvertical unconventional wells and \$4,200 for vertical unconventional wells. Conventional well operators are not affected by the proposal and will continue to pay the current vertical well fee as provided in Chapter 78. The current average unconventional nonvertical well permit fee is \$3,200 and

the current average vertical unconventional well permit fee is \$2,000. As a result of the change in fee structure included in this proposed rulemaking, the permit fee for an average unconventional well will increase by approximately \$1,800 per well for nonvertical wells and by \$2,200 per well for vertical wells.

DEP consulted with the Oil and Gas Technical Advisory Board (TAB) in the development of the proposed rulemaking. DEP presented the draft proposed rulemaking to TAB at its April 23, 2013, meeting. Because the rulemaking does not address technical issues relating to oil and gas, TAB did not take a formal action on the proposed rulemaking. DEP staff also discussed the draft proposed rulemaking with members of the Associated Petroleum Industries of Pennsylvania, the Pennsylvania Independent Oil and Gas Association and the Marcellus Shale Coalition.

DEP recommends the Board's adoption of the proposed rulemaking with a 30-day public comment period.

I will be contacting each board member prior to the meeting to discuss any questions or concerns you may have regarding the agenda items for the July 16, 2013, EQB meeting. If you have any immediate questions or concerns, please contact me at 717.783.8727 or by e-mail at mtate@pa.gov.

Thank you.

Enclosures