

Environmental Quality Board
(Comment summary)

Public comments; Proposed Rulemaking; Oil and Gas Wells; Title 25, Part I, Subpart C, Article I, Chapter 78, Subchapter A, (Pennsylvania Bulletin, Vol. 40, No. 28, July 10, 2010.) IRRC No. 2857, Reg. No. 7-459.

78.51

On or about November 24, 2009 Stephenson Group Natural Gas Company, "SGNGCO", submitted a rulemaking petition, the "Petition", to the Environmental Quality Board, "EQB", pursuant to Chapter 23, §23.3. The Petition requested amendments to Title 25, Chapter 78, §78.51 and §78.52. On or about January 19, 2010 SGNGCO submitted a revised version of the Petition to the EQB addressing the assessment of the Petition by the EQB. On March 16, 2010 the EQB accepted the revised Petition pursuant to 25 Pa Code, Chapter 23. (See 40 Pa.B.1635, Saturday March 27, 2010, copy enclosed.) The EQB accepted the Petition for further review at 40 Pa.B.1635 as part of this rulemaking package and thus far has failed to do so.

78.51(A)

What will be "...reasonably foreseeable uses..." and who will determine this? With respect to property not zoned for construction purposes a 60 gallon per day water supply for a residential dwelling could become the 60,000 gallon per day water supply for a car wash in the future. Would this scenario qualify as "...reasonably foreseeable uses..." for which an operator should be liable? This term is too ambiguous and will lead to unnecessary debate and litigation.

78.52

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78.84

The term "new" needs defined. "New" as in never previously purchased from a supplier for installation in a well? "New" as in purchased from one operator by another but never having been installed in a well? "New" as in installed in a well for a few hours for a particular operation then removed to be immediately reinstalled? "New" as in never installed in a well but has weathered from storage to a point of more or less being "used". Conversely the term "used" should be defined as well.

78.89 (a)

The term "natural gas migration incident" is too broad and ambiguous and needs further definition. An operator would be placed under the undue duress of unilaterally defining what this term means for proper compliance with this section. In addition an operator could deem that no notification of such an "incident" would qualify as a "natural gas migration incident". Without a clear definition the DEP would have no definition on which to rely to enforce compliance with this section therefore rendering this section useless.

An operator could be notified by a complainant of a "natural gas migration incident" at an area several miles from the location of any facilities owned, operated or controlled by the owner or operator. Language should be included such as "...owner is notified of or otherwise made aware of a natural gas migration incident (occurring within 2500 feet of the location of any wells or facilities owned, operated or under the control of the operator), the operator...".

78.89 (b)(1)

This commentator is not aware of any other situation where a complainant and an operator or owner must confront each other concerning a complaint. The DEP has historically vigorously defended the confidentiality of the identity of a complainant. The policy proposed here is inherently flawed and irresponsible to the general public. An unsuspecting complainant, without knowledge of their civil rights, could be subject to possible vigorous and intimidating interrogation by an operator including but not limited to an entourage of investigators and legal counsel. An operator may be pulled into a fraudulent complaint and ill intentioned, yielding a situation risking harm, bodily injury or death. Conversely an individual posing as an agent for an operator could use this regulation as a premise for ill intentioned activities (burglary, robbery, assault, rape, etc.) which has happened many times in the past in like situations. If the DEP wants this regulation then it should perform the police function of the same.

General comment:

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania as set forth therein. At 40 Pa B. 4154, Saturday, July 24, 2010, (Pa. B. Doc. No. 10-1324. Filed for inspection July 23, 2010 9:00a.m.) the EQB announced the scheduling of an additional hearing with respect to the proposed rulemaking. The hearing was scheduled for July 26, 2010 at 7:00p.m. at the Department of Environmental Protection, Southwest Regional Office, Waterfront Conference Rooms A and B, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. It would be impossible for the general public, and not privy to the printer's press or inside information, to be in possession of a hard copy of the bulletin dated Saturday, July 26, 2010 to be made aware of the said additional public hearing occurring Monday, July 26, 2010. Such an action by the EQB is unscrupulous and unduly spontaneous at best.

Respectfully submitted, Gregory W. Stephenson, Vice President, Stephenson Group Natural Gas Company