

**MINUTES**  
**OIL AND GAS TECHNICAL ADVISORY BOARD MEETING**  
**August 15, 2012**

A meeting of the Oil and Gas Technical Advisory Board (TAB) was held on August 15, 2012 in Room 105 of the DEP Rachel Carson State Office Building, Harrisburg.

**TAB MEMBERS PRESENT**

Chairman Robert Watson, Burt Waite, Gary Slagel, Art Yingling, and Sam Fragale.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT**

Deputy Secretary Scott Perry, Eugene Pine, M. Seth Pelepko, Shamus Malone, James Kline, Stephen Brokenshire, Kirk Elkin, Joseph Adams, Todd Wallace, Jessica Shirley, Kerry Leib, Kevin Sunday, Doug Brennan, Trisha Salvia and Darek Jagiela attended from DEP.

**INTRODUCTION AND OPENING REMARKS**

Chairman Robert Watson called the meeting to order at 9:59 a.m. and introductions followed.

**APPROVAL OF DRAFT MINUTES FROM THE PREVIOUS ADVISORY BOARD MEETING**

Burt Waite made a motion to approve the minutes from the May 16, 2012, TAB meeting, Gary Slagel seconded. Minutes were approved.

**TAB HOUSEKEEPING ISSUES**

Deputy Secretary Scott Perry began the meeting by stating that, due to Act 13, the Department of Environmental Protection (Department) wants to move expeditiously in getting the surface regulatory changes approved by having TAB meet once a month until November. He then asked for two additional meeting dates. The days of September 17, 2012, and October 15, 2012, were chosen.

Perry then discussed the issue of the Department reviewing all TAB members, asking that the TAB members who are interested in staying with TAB to please submit their resumes so he can forward them to the Governor's Office for consideration. Perry asked that TAB complete this submittal by the next meeting in September. Finally, the TAB Bylaws are being looked at and may be revised with TAB input.

**SUBSURFACE ACTIVITIES UPDATE – CASING, CEMENTING, AND WELL INTEGRITY WORKGROUP UPDATE, CHAPTER 78 SUBCHAPTER D REVISIONS**

Eugene Pine discussed the last Well Integrity / Cementing workgroup meeting in State College, which was in June and had 55 attendees. The Department requested comments by the end of July, but comments were still being received and reviewed. The next meeting will probably occur at the end of September or later in either State College or Grantville, Pennsylvania.

Seth Pelepko reviewed the 130 comments that were received in July. Pelepko then summarized the concerns raised in the comments. These concerns included the policy's broad applicability, monitoring frequency, pathway to remediation and appropriate responses to problems (that is, other options than perfling and squeezing). The Department is trying to give the regulated community consistent direction on how to fix and classify these wells, given the need for the mechanical integrity testing of all wells under § 78.88.

Burt Waite asked about the Department's policy on technical guidance documents. Scott Perry responded the technical guidance document will be subject to public review, including TAB review, before being finalized.

Pine stated that the Department is engaged with the right people and that the workgroup has come very far from the original meeting in March 2011. The Department has deferred regulatory implementation since February 2011, until this process is completed. Referencing Texas Railroad Commission documentation, Pine said that the Department's implementation is more encompassing and shows what to do through the Flowchart and accompanying Technical Guidance Document.

Robert Watson asked if the comments the Department received are going to be given to TAB, and if TAB should create a subcommittee to work on these forms. Waite said he felt the current workgroup is effective. After consideration, Slagel said as long as TAB is kept in the loop and documentation is circulated, that he does not feel a subcommittee is necessary.

Slagel said there are close to 70,000 operating wells in the Commonwealth, and questioned the applicability of this project. He asked Perry if the Department does an impact analysis before moving forward with projects like this. Perry responded that the Department has an expectation that all operators will report quarterly on the integrity of all their wells in accordance with Chapter 78. Further, the Department has issued Notices of Violations due to annular flows, with the genesis of the document being to address annular flow and pressure, and determining if a well poses a threat to the public or the environment. Three regulations influenced this document's creation: the quarterly integrity inspection, keeping the gas in the wellbore, and gas migration response. Robert Watson then asked Perry if the Department is considering a grandfathering clause, stating the implications are significant. Perry replied that the implications have been here for years through the regulations.

Art Yingling asked if the Department is going to consider its working and abandoned well inventory when implementing this project. Pine answered that the 8,400 wells in Department's inventory have already been ranked and given a numerical score based on several factors. Yingling asked how often these 8,400 wells are monitored, and if the new procedure is what the Department will use when assessing these wells. Perry replied that the Department will not be inspecting all 8,400 wells on an annual basis and Pine responded that process the Department uses will not change.

Slagel asked how many wells per year are plugged by the Department, to which Pine responded between 100 and 250 wells. Slagel then asked if any of the Impact Fee funds are going to go towards well plugging. Perry stated Act 13 does not provide a specific amount going to the Abandoned Well Fund, but the Commonwealth Financing Authority can award grants for

plugging. Pine stated that for almost every well the Department plugs, another is added to its inventory.

Yingling asked how many of the abandoned wells in the Commonwealth's inventory are in severe condition. Perry replied that wells in that condition are tended to immediately. Pine added that there are other factors that go into plugging such as proximity to the public, how much the well is leaking, and how much of a threat it possesses. Sam Fragale asked if the annual budget is big enough to cover all the wells that pose a threat to the environment or public safety. Perry reiterated that the Department is not going to let any abandoned well continue to pose a substantial threat without being plugged.

A question regarding how many wells in total have been drilled in Pennsylvania was raised, to which Pine responded between 350,000 and 500,000 wells. It was said when the state originally had plugging regulations, those regulations were significantly less stringent. Pine acknowledged that, but said the Department has come a long way. The question was asked whether there were enough funds to plug all wells in the Commonwealth that need to be plugged. Pine responded there was not, while Perry restated that any abandoned wells posing an imminent threat are being plugged and taken care of by the Department.

Pine then spoke on the last Deepest Fresh Groundwater meeting in State College. He discussed the presenters and their presentations at that meeting, and how they helped to address and work on finding a solution to determine the deepest fresh groundwater across the Commonwealth. Another meeting is planned for late fall of 2012.

Finally, Pine provided a Subchapter D update. The plan is to have a document for TAB to review by spring of 2013, and the final rulemaking in effect by mid-2014.

### **2012 OIL AND GAS ACT IMPLEMENTATION UPDATES**

Scott Perry said that the Department has three quick updates with respect to the subject.

The first update was waivers. The Commonwealth court recently struck down the Department's authority to approve waivers for distance restrictions. The Commonwealth appealed the court's ruling, and now there is an automatic stay which allows for issuing waivers. Perry said if that stay is lifted, the Department will have to stop issuing waivers. The Department will process permits with waivers currently until the stay is gone. The Department's next step is publishing approved waivers in the Pennsylvania Bulletin, which constitutes as a constructive notice of the Department's decision. Perry stated the Department is being transparent and setting a timeframe for which any litigation could occur surrounding waivers.

The second update concerned Permit Forms. The Department is in the process of changing the permit forms due to Act 13, and making one last round of changes to address all the problems that may have been missed. Some changes in the forms will be related to rock pits, fresh water impoundments, and salt water impoundments. The biggest complaint that has been received is that the Department is collecting the same information in multiple areas of each form, and that the process is not more streamlined. The Department's desire is to be transparent and shift to electronic submission, with information viewable on the web. The current timeframe for completion of the Permit Forms is by the end of August 2012.

The last update was bonding. The legislature repealed the bonding increase on conventional wells in July. The bonding forms will be completed by the end of August 2012. A refund process for those who submitted too large a bond after Act 13 went live and before the repeal is in the works.

### **ACT 9 OF 2012 – PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY/DEP JOINT RULEMAKING**

Doug Brennan, Director, Bureau of Regulatory Counsel, presented on Act 9 emergency requirements. Act 9 was enacted in early February of 2012. Act 9 only deals with unconventional wells, and requires the Department and the Pennsylvania Emergency Management Agency (PEMA) to issue new emergency regulations. Brennan stated that there will be no public comment review period.

Brennan then detailed the three main requirements included in these regulations. The first is that well operators have to identify a street address for any entrance to a well site and GPS coordinates for the well site entrance(s), well(s), and the well site. The second requirement is for operators to prepare an emergency response plan. These two items must be provided to the Department, PEMA, and the County Emergency Management Organization. The third requirement is an appropriate sign directing regulators to the well site.

Brennan stated that the Environmental Quality Board (EQB) will need to approve the regulation and the current schedule is to bring it before the EQB in October. The emergency response plan will follow the National Incident Management System concepts closely.

Art Yingling concluded that there is a lot of overlapping between the Preparedness, Prevent and Contingency (PPC) plan and this regulation, asking if this is intentional. Perry responded that the goal is to have one plan, to which Kerry Leib added that the Department has technical guidance for operators to consolidate their plans into one that satisfies both the Department's PPC plan requirements and the new regulation's emergency response plan requirements. Jessica Shirley stated that the Department would need comments on this by the end of August.

Gary Slagel expressed concern about the large sign at the site entrance requirement, due to security issues raised. He asked if there were any thoughts that a four foot by four foot sign is going to draw more attention to the site and lower its security. He also questioned if the relationships between operators and emergency responders in the regions are close enough for emergency responders to get to these well sites in time. Shirley responded that these issues were addressed at the origination of the documents, but Slagel noted that a lot has happened since then.

Andrew Paterson provided that the MSC supports these activities, but asked for a chance to meet with regulators on this document to discuss the MSC's comments.

### **CHAPTER 78 SUBCHAPTER C REVISIONS STATUS – SURFACE ACTIVITIES; CHANGES AND TIMELINE**

Shamus Malone presented the concept document concerning surface activity regulations, indicating that he wanted to go through it and get TAB's feedback. Gary Slagel replied that

TAB is not prepared to respond to this document yet and needs more time. Slagel asked Malone how the Department is going to incorporate the comments from the MSC, to which Malone responded that the MSC's comments were not yet incorporated. Scott Perry stated that the Department has an internal review process and needs more time to review the MSC's comments. Slagel suggested that the Department should look at what the industry has submitted and try and work those items in. Art Yingling requested that Shamus highlight the changes. Perry then stated that the goal is to have these changes ready for the EQB in December, but that the one in January is not out of the question if the revisions should take longer.

Yingling then asked about site specific PPC plans, wanting to know how one particular site is deemed different from another site with a generic PPC plan. Malone said that the Department would like everything to be site specific, but is okay with having it only be location detail specific. Stephen Brokenshire then discussed the site specific details the Department requires.

### **DRAFT FINAL SPILL POLICY UPDATE**

Scott Perry said the Department does not have the draft prepared for TAB yet due to unforeseen circumstances. He stated the significant change is specific to well sites and what operator's responsibilities are specific to well sites. The Department is going to be working to implement the policy into regulation.

Perry mentions that the Supreme Court has upheld the stay for waivers mentioned earlier and that the Department will be able to continue issuing waivers.

### **NEW BUSINESS**

Scott Perry stated the Department did not feel any topics that were not already addressed need to be discussed under this agenda item.

Burt Waite asked about water supply withdraw, and Water Management Plans (WMP). Perry discussed the changes to public water supplies and requirements for their WMPs, stating it could lead to changes in operator's WMPs. Waite stated that small towns that supply water to operators may lose income if they are unable to provide the water, due to requirements of municipalities having a WMP, when the municipality does not have a WMP. The meeting was informed that the SRBC has issues in Williamsport with public water suppliers being required to have a WMP, Perry stated he will have to discuss this with the Department's WMP staff.

### **ADJOURN**

A motion to adjourn the meeting was made by Chairman Watson at 11:49 a.m.