

MEETING MINUTES

Oil and Gas Technical Advisory Board Meeting

December 5, 2023

TAB MEMBERS PRESENT

Voting Members: David Yoxtheimer, Ph.D., PG (Chair), Fred Baldassare, PG, Jeffrey Walentosky, PG, Casey Saunders, PE

Non-voting Advisors: Susan Brantley, Ph.D., John Walliser, Esq.

DEP STAFF PRESENT

Kurt Klappkowski, Kris Shiffer, Todd Wallace, Joe Kelly, Ann Mathews, Don Hegburg, Myron Suchodolski, Kathleen Ryan, Maximillian Schultz

CALL TO ORDER

A hybrid meeting of the Oil and Gas Technical Advisory Board (TAB) was held in Room 105 at the Rachel Carson State Office Building, 400 Market Street, Harrisburg and also via Microsoft Teams. This meeting was open to the public. Klappkowski called the meeting to order at about 10:02 a.m. and opened the meeting with introductions of DEP staff and a roll call of the TAB members.

APPROVAL OF MEETING MINUTES

Yoxtheimer asked board members if there were any comments or suggested edits to the meeting minutes. Walentosky recommended that the word “marginal” in the second paragraph on page 5 be revised to read “marginal wells.” Yoxtheimer called for a motion to approve the meeting minutes of the September 5, 2023 TAB meeting and Saunders moved to accept the minutes as amended. Baldassare seconded. The meeting minutes were approved unanimously.

PUBLIC COMMENT

Yoxtheimer stated that four individuals registered in advance of the TAB meeting to provide public comment. Yoxtheimer informed the commenters that comments should be limited to no more than five minutes. Wallace reminded all individuals participating in today’s meeting that the meeting is being recorded and will be posted to the TAB website. Wallace explained that comments will be received from individuals in alphabetical order and that each individual should introduce themselves at the beginning of their comment period.

Ms. Laurie Barr read two passages from the “Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking and Associated Gas and Oil Infrastructure” (<https://concernedhealthny.org/wp-content/uploads/2023/10/CHPNY-Fracking-Science-Compendium-9.pdf>). The passages were from page 229 and page 231 and referenced two studies. One study attributed oil and gas hydraulic fracturing operations to higher radon levels in buildings where such activities occurred. The second study concluded that treated drilling wastewater correlated to higher sediment samples near the discharge location than sediment samples collected upstream from the treatment plant.

The second commenter, Barbara W. Brandom, MD, referenced information from the same compendium as was cited by Ms. Barr. Dr. Brandom’s comments pertained to the underground injection of drilling wastewaters and the following hazards that were listed in the compendium: water pollution, air pollution and earthquakes.

The third commenter, Mr. Dan Tomkinson, also referenced the same compendium as Ms. Barr and Dr. Brandom. Tomkinson stated that it is impossible to regulate the oil and gas industry in a way that prevents harms and that regulations are reactionary in nature. Tomkinson commented that there is too much trust between DEP and the oil and gas industry and that a result of this is “regulatory capture” whereby DEP employees leave commonwealth service and are hired by oil and gas operators.

Ms. Barbara Laxon, the fourth commenter, had technical issues with her audio on and was unable to be heard. Ms. Laxon successfully called into the meeting; however, her audio quality was very poor and it was difficult to hear her comments. Ms. Laxon read from an “EPA document that was published on December 2, 2023.” The report stated that the oil and gas industry is the largest source of methane which is a super-pollutant and is responsible for one third of climate warming from all greenhouse gas emissions.

Wallace encouraged all public commenters to forward their public comments to him.

UPDATE ON METHANE EMISSIONS REDUCTION PROGRAM (MERP)

Klapkowski provided a verbal update of the status of the Department’s efforts to implement the MERP and updated the board on the status of the Department’s overall efforts to implement the Infrastructure Investment and Jobs Act (IIJA).

Walentosky inquired about the timing of the spending of the MERP funding and Klapkowski responded there is a 5-year window in which the Department can spend this funding.

UPDATE ON CHAPTER 78 REVISIONS AND CDAC COMMENTS

Klapkowski provided a comprehensive update on the status of the proposed Chapter 78 Rulemakings. The first rulemaking relates primarily to the proper management of waste

generated at conventional oil and gas well sites; the second rulemaking addresses other critical environmental protection performance standards at such sites.

Walentosky asked if these two proposed rulemakings will be combined or advanced as separate proposed rulemakings. Klapkowski responded that the proposed rulemakings will continue as two separate rulemakings for the sake of efficiency and to keep discussion more focused.

STATUS OF TECHNICAL GUIDANCE AND FAQ DOCUMENT

Kelly reported that the Department met with industry representatives in February and proceeded with the development of a Frequently Asked Questions (FAQ) document that addressed eleven general questions regarding Individual Erosion and Sediment Control (E&S) Permit Applications. This document will be posted on the DEP website for access by industry and the public.

Kelly explained that the Bureau of Waterways Engineering and Wetlands is developing a final version of the Trenchless Technologies guidance document and the Department plans to present the final version of this document to TAB and the other appropriate DEP boards and committees in the first quarter of 2024.

DISCUSSION OF CERTIFIED OIL AND GAS INSPECTOR PROGRAM

Shiffer summarized the Department's concept to establish a certified Oil and Gas Inspector Program. Shiffer explained that this program is modeled on a similar certification program that has been operating successfully within DEP's Storage Tank Program for 37 years.

Given the universe of oil and gas well sites and the existing number of DEP Oil and Gas Inspectors, it would otherwise take about 16 year and 5 years to conduct inspections of all conventional and unconventional oil and gas sites, respectively. A certified Oil and Gas Inspector Program will allow the Department to establish a new industry sector that will provide private sector jobs while also ensuring that more oil and gas well sites are inspected more frequently.

Brantley asked how DEP can ensure that inspectors operate independently and in a uniform manner. Shiffer responded that DEP will develop standards of performance that each certified inspector must follow and that an inspection form will be developed and used by all certified inspectors. Failure to comply with these requirements would result in the removal of their certification and eliminate the ability to continue to operate as a certified Oil and Gas Inspector.

Baldassare stated that a certified Oil and Gas Inspector Program is a smart approach and asked what sort of training will be offered to individuals seeking to participate. Shiffer explained that DEP will develop and launch a training program and individuals would

likely be required to work under the direction of an existing certified Oil and Gas Inspector for some period of time before being allowed to work independently.

Shiffer responded to several questions from Saunders, Walentosky and Yoxtheimer. Shiffer explained that an operator must ensure that an inspection is conducted by a certified Oil and Gas Inspector and that the inspections will pertain to routine oil and gas drilling operations. Shiffer stated that the Department reviewed other state programs, but did not find a model program in other states, but there are local governments that use such an approach.

Yoxtheimer stated that the TOPCORP training program might be able to serve as a model for the Department to consider as it develops training for this third party inspector program. The TOPCORP training program is a collaboration between oil and gas companies and academic institutions including the Pennsylvania State University.

UNCONVENTIONAL WELL SPILL POLICY

Kelly stated that the Department started reviewing this policy document and it is still under review. The Department would like more time to review the draft policy so it can provide unified comments.

Walentosky thanked the Department for its intent to review this document and stated it will look very similar to the conventional spill policy since that document is the basis of the draft unconventional spill policy.

Kelly stated that when comments are available, they will be provided to Walentosky. Kelly reminded the board that depending on what form the document takes (i.e., technical guidance document, policy document, etc.) it will require various levels of review within the Department. Klapkowski mentioned that John Ryder is now the Deputy Secretary of Field Operations and his successor should be involved in the review of this draft Spill Policy document.

DISCUSSION OF FINANCIAL ASSURANCE STRATEGIES TO ADDRESS FUTURE WELL ABANDONMENT

Klapkowski provided the board with a historical perspective and background summary of this issue. He stated that the specific focus of this dialogue is to determine projected costs to pay for the plugging of wells in Pennsylvania and the broader focus is to determine what tools exist or can be created to address this matter.

There was some good dialogue between the board and Department about various perspectives on this topic. Klapkowski requested that TAB form a workgroup to focus on this issue during the 2024 calendar year. Yoxtheimer responded that perhaps this is a topic that the Well Plugging Committee might address. Klapkowski stated that he sees the Well Plugging Committee more as a technical committee to address issues such as “attainable bottom” and suggested there is a need for a separate committee to focus on

the policy, risk management and financial assurance perspectives of this issue. Yoxtheimer responded that TAB is willing to assist as necessary on this front.

UNDERGROUND INJECTION CONTROL (UIC) DISPOSAL WELLS

Donohue reported there are currently 14 active UIC disposal wells. One well is on regulatory inactive status and one well application (Keating Township, McKean County) that is currently pending review. The following two operators recently withdrew their permits: Penneco Environmental Solutions (Plum Borough, Allegheny County) and Roulette Oil and Gas (Clara Township, Potter County).

Donohue reminded the board that the U.S. EPA currently maintains federal primacy over the Class II disposal well program in Pennsylvania. He explained the public notice provisions that apply to Class II disposal wells. The Department offers an eNotice tool where the public can register to receive notice of permit applications that are received by the Department. Also, under Section 3251 of the Oil and Gas Act, individuals with a direct interest in a Class II well can request a conference with the operator. The Department is the moderator and if any agreements are reached they are reduced to writing and shared with the individuals who participated in the conference. The Department also has the ability to convene a public hearing if it so chooses.

Brantley asked if there are problems when decisions are made in the Section 3251 conferences and the public is not informed. Donohue explained that any agreements are reduced to writing and is made part of the permit application. He explained that these conferences are generally productive and the public is informed via eNotice of permit applications and actions.

Klapkowski updated TAB members of the current status of the Class VI application for federal primacy that the Department is pursuing. On November 2, 2023, the U.S. EPA announced the availability of \$48 million for states to pursue Class VI primacy and the Department submitted a Notice of Intent (NOI) to attempt to secure its share of this funding (\$1.9 million). Klapkowski noted that enactment of state legislation might be a good way to provide for direct state authority to seek federal primacy of the Class VI carbon sequestration well program.

UPDATE ON TAB SUBCOMMITTEES

Approval of Chair of Well Plugging Subcommittee

TAB formally established the Well Plugging Subcommittee by vote at the December 5, 2023 TAB meeting; however, a subcommittee chair was not elected at that time. Saunders moved to nominate Walentosky as chairperson of the Well Plugging Subcommittee and Baldassare seconded the motion. All board voting board members voted in favor of Walentosky as chairperson.

Type 1L Cement in Well Construction

Yoxtheimer provided a recap of the chemical and physical characteristics of Type 1L cement and updated TAB members about what steps have been taken since the December TAB meeting. Yoxtheimer explained that Hegburg approached Dr. Arash Dahi Taleghani at the Pennsylvania State University (PSU) about the possibility of PSU conducting research on whether Type 1L cement is appropriate for use in unconventional well construction practices. Dr. Taleghani developed a proposal to conduct this research and the projected cost of the study is about \$100,000. It is unclear how this funding will be funded since this is not currently included in the Department's approved budget.

Yoxtheimer asked the TAB members if it makes sense to establish a subcommittee to further address Type 1L cement issues. Walentosky stated that the Department requested that TAB establish such a committee and he suggested that TAB review the PSU research proposal and then have some internal discussions to decide appropriate next steps. Baldassare agreed with this approach. Yoxtheimer stated that this topic should be included on the March 19, 2024, TAB meeting agenda.

Electronic Data Submissions

Yoxtheimer stated that he was approached by several oil and gas operators about some perceived redundancies with regard to the Department's electronic data submissions. He acknowledged the competing priorities with the emerging IT enhancements facing the Department as a result of the implementation of the Infrastructure Investment and Jobs Act and Methane Emissions Reduction Program and offered to serve as a liaison to the Department. Suchodolski stated that he is willing work with Yoxtheimer and encouraged the board to share examples of data submission redundancies and how current reporting process can be streamlined.

NEW BUSINESS

2022 Oil and Gas Annual Report

Yoxtheimer informed board members that the "2022 Oil and Gas Annual Report was published by the Department and is available on the DEP website.

Streamlining of Future Meeting Minutes

Wallace commented that he would like to streamline future board meeting minutes while capturing significant actions of the board. This approach is how other DEP boards and committees capture meeting minutes. Also, the TAB meetings are recorded in their entirety and are available to the public on the TAB website. The board agreed.

2024 TAB Meeting Dates

Wallace recommended the following meeting dates for 2024 based on room availability and his outreach to board members prior to today's meeting:

March 19

June 6

September 5

December 5

Walentosky commented that he has a conflict on June 6. Wallace agreed to check the availability of Room 105 on alternate dates.

ADJOURNMENT

Yoxtheimer asked for a motion to adjourn the meeting. Walentosky made a motion and Saunders seconded. The motion passed unanimously, and the meeting was adjourned.

DRAFT

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