



April 23, 2025

The Honorable Jessica Shirley
Acting Secretary of Environmental Protection
P.O. Box 2063
Harrisburg, PA 17105-2063

Dear Acting Secretary Shirley:

On behalf of the Marcellus Shale Coalition, the Pennsylvania Coal Alliance, and the Pennsylvania Independent Oil and Gas Association, please find attached a completed Petition Form.

The Petition Form seeks review by the Department of Environmental Protection and consideration by the Environmental Quality Board of suggested regulatory language pertaining to the issue of attainable bottom as it relates to the plugging of orphan wells.

Attached to the Petition Form is a narrative and suggested regulatory amendment language.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Welty".

Jim Welty, President
Marcellus Shale Coalition

cc: Rachel Gleason, Executive Director
Pennsylvania Coal Alliance
Dan Weaver, President and Executive Director
Pennsylvania Independent Oil and Gas Association

Attachment

**COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL QUALITY BOARD**

PETITION FORM

I. PETITIONER INFORMATION

Name: Marcellus Shale Coalition, PA Coal Alliance, Pennsylvania Independent Oil & Gas Association

Mailing Address: MSC 400 Mosites Way, Suite 101, Pittsburgh, PA 15205

PCA 212 North 3rd Street, Suite 203, Harrisburg, PA 17101

PIOGA 100 Allegheny Drive, Suite 104, Warrendale, PA 15086

Telephone Number: MSC 412-706-5160 PCA 717-233-7900 PIOGA 724-933-7306

Date: April 23, 2025

II. PETITION INFORMATION

A. The petitioner requests the Environmental Quality Board to (check one of the following):

☐ Adopt a regulation

☒ Amend a regulation (Citation 25 Pa Code 78.1/78a.1/78.91©/78a.91©)

☐ Repeal a regulation (Citation _____)

Please attach suggested regulatory language if request is to adopt or amend a regulation.

B. Why is the petitioner requesting this action from the Board? (Describe problems encountered under current regulations and the changes being recommended to address the problems. State factual and legal contentions and include supporting documentation that establishes a clear justification for the requested action.)

The Department has identified the plugging of wells, especially orphan wells, as a top priority. The Department has received substantial funds from the federal government to carry out the plugging of wells. In order to efficiently spend state and federal funds it is necessary to have clarity regarding the plugging requirements. Many orphan wells are decades, if not more than a century old, and plugging can be complicated and expensive. Often these wells cannot be cleaned out to full depth and are effectively plugged using attainable bottom. Currently there is confusion regarding how attainable bottom is determined, and this uncertainty has deterred some from plugging wells. The proposed amendments would clarify how attainable bottom is determined and how plugging should proceed from that point.

Please see attached narrative and suggested regulatory amendment language.

- C. Describe the types of persons, businesses and organizations likely to be impacted by this proposal.

The proposed amendments will impact businesses seeking to plug wells, including orphan wells, by creating greater clarity as to how attainable bottom will be determined if and when necessary. It also will impact the Department and non-governmental organizations that may fund the plugging of orphan wells.

- D. Does the action requested in the petition concern a matter currently in litigation? If yes, please explain.

NO

- E. For stream redesignation petitions, the following information must be included for the petition to be considered complete. Attach supporting material as necessary.

1. A clear delineation of the watershed or stream segment to be redesignated, both in narrative form and on a map.
2. The current designated use(s) of the watershed or segment.
3. The requested designated use(s) of the watershed or segment.
4. Available technical data on instream conditions for the following: water chemistry, the aquatic community (benthic macroinvertebrates and/or fishes), or instream habitat. If such data are not included, provide a description of the data sources investigated.
5. A description of existing and proposed point and nonpoint source discharges and their impact on water quality and/or the aquatic community. The names, locations, and permit numbers of point source discharges and a description of the types and locations of nonpoint source discharges should be listed.
6. Information regarding any of the qualifiers for designation as high quality waters (HQ) or exceptional value waters (EV) in §93.4b (relating to qualifying as High Quality or Exceptional Value waters) used as a basis for the requested designation.
7. A general description of land use and development patterns in the watershed. Examples include the amount or percentage of public lands (including ownership) and the amount or percentage of various land use types (such as residential, commercial, industrial, agricultural and the like).
8. The names of all municipalities through which the watershed or segment flows, including an official contact name and address.
9. Locational information relevant to items 4-8 (except for contact names and addresses) displayed on a map or maps, if possible.

**All petitions should be submitted to the
Secretary of the Department of Environmental Protection
P.O. Box 2063
Harrisburg, PA 17105-2063**

PETITION NARRATIVE

Pennsylvania is home to an estimated 350,000 orphan and abandoned wells; some estimates put this number of wells much higher. The Department of Environmental Protection (Department) has identified and documented approximately 30,000 of these wells. Orphan and abandoned wells pose public safety and environmental concerns, which the Department has focused upon in an effort to increase the number of wells plugged through both private and public efforts.

Pennsylvania and other states with historic oil and natural gas development have the opportunity to realize significant federal dollars made available for plugging efforts under the Infrastructure Investment and Jobs Act (IIJA). The IIJA has specified time periods under which state governments must apply for eligible funding. It is critically important that Pennsylvania be well positioned to maximize its receipt of eligible funding and then encumber these funds within the necessary IIJA timeframes.

For a variety of reasons, the Commonwealth has lagged behind other neighboring states in the number of wells plugged. For example, for the years 2023-2024 Ohio reports that approximately 735 abandoned wells have been plugged, while West Virginia (with a much smaller historical footprint of abandoned wells than Pennsylvania), reports approximately 290. Pennsylvania has announced the plugging of approximately 300 wells during this same time period.

One of the reasons cited by some contractors engaged in plugging efforts in multiple states is the regulatory uncertainty in Pennsylvania. One area of regulatory uncertainty relates to the issue of “attainable bottom” of an orphan or abandoned well. A clearer understanding of how the Department determines that the attainable bottom has been realized, and clarity for a plugging company to proceed with confidence on the plugging job, will help to facilitate a more efficient and effective process for the successful plugging of more orphan and abandoned wells in the Commonwealth.

Plugging amendments – Suggested Regulatory Language

78.1/78a.1 Attainable bottom. The depth approved by the Department that can be achieved after a reasonable effort is expended to clean out to the total depth. An operator shall be presumed to have made a reasonable effort to achieve the attainable bottom if the operator has cleaned out the well to at least 200 feet below the coal protective casing (or coal seam if no coal protective casing is present) or surface casing, whichever is deeper, and an additional 100 feet of well bore cannot be cleaned out within one 8-hour work shift.

78.91(c)/78a.91(c) When a well is being plugged from the attainable bottom, the operator shall clean out the well to at least 200 feet below the coal protective casing (or coal seam if no coal protective casing is present) or surface casing, whichever is deeper. If an additional 100 feet of well bore cannot be cleaned out within one 8-hour work shift, the operator shall notify the DEP inspector that a reasonable effort has been made and the attainable bottom depth will be considered reached. A cement plug of a least 50 feet will be set at the attainment bottom of the well bore. After sufficient time has elapsed, the depth and efficacy of the plug will be confirmed and the remaining well bore will be plugged [install a 50-foot plug of cement at the attainable bottom and plug the remainder of the well] under §§ 78a.92—78a.98.