



May 3, 2021

**To: Members of the House Environmental Resources & Energy Committee**  
**RE: Opposition to House Bill 1144 (P.N. 1199)**

Dear Representatives:

The Environmental Defense Fund (EDF) and Pennsylvania Environmental Council (PEC) wish to convey our opposition to House Bill 1144. While we recognize that there can be appreciable differences between conventional and unconventional operations, this legislation includes dramatic reductions to health and environmental protections that are unwarranted and unsafe. Instead of adjusting for true differences between conventional and unconventional operations, House Bill 1144 inappropriately shifts the costs and risks inherent in conventional operations to the citizens of the Commonwealth.

HB 1144 is Not Based on Actual Risk Assessment

Any potential divergence in protection standards must be based on objective risk assessment, and consider actual practices and technologies employed at a well site. Under Act 13 of 2012, and as defined in HB 1144, the fundamental distinction between “conventional” and “unconventional” operations fails to account for what scale or type of operations are actually happening at the well site – “conventional” wells can be drilled horizontally and hydraulically fractured at much shallower formations in closer proximity to groundwater.

As a starting point, any proposal that seeks to create separate rules must be narrowly tailored to the technologies and practices being used. HB 1144 does not meet that principle.

HB 1144 Weakens or Removes Fundamental Environmental and Health Protections

House Bill 1144 weakens protection standards provided in existing law. Some of the most significant instances are:

- Removing opportunity provided in existing law for local government input on well permit applications.
- Removing the requirement in existing law to analyze potential impacts to Public Resources. This requirement was established in the 1984 Oil and Gas Act, expanded by Act 13, and validated by the Pennsylvania courts.
- Exempting certain existing wastewater treatment facilities from state water protection requirements [Section 904(h) of the legislation].
- Allowing for road spreading of well drilling wastewater without specific characterization of the chemical or hazardous constituents included in that wastewater [Section 904 (d) and (f) of the legislation].

- Removing containment, as well as spill and leak prevention and reporting provisions, despite the documented fact that conventional sites present threats similar to unconventional operations [multiple sections of the legislation].
- Weakening protections for impacted drinking water supplies, including failure to ensure that, in all instances, replacement supplies meet the standards of the Safe Drinking Water Act. [Section 308(a) of the legislation].
- Weakening well integrity, groundwater protection, and plugging and remediation standards that run counter to common industry practices already employed in Pennsylvania today [multiple sections of the legislation].
- Preserving woefully inadequate bonding and other financial assurance requirements, which threaten to leave Pennsylvania on the hook for costly remediation work in the decades to come. An operator is only required to provide a blanket bond of \$25,000 no matter how many wells they are operating. As has been reported by both the Department and the conventional industry, the remediation costs for a single well can vastly exceed this amount. While HB 1144 allows, after a five period, for adjustment of this amount via rulemaking, it caps any increase to no more than \$10,000 from the prior amount. [Section 315 of the legislation].

In addition, this legislation fails to guard against the increasing frequency of conventional wells being transferred en masse to under-capitalized entities. This is a growing concern in our state – in recent years tens of thousands of wells were transferred without full accounting of what the financial and environmental risks might be to the Commonwealth in the event of bankruptcy or other default. DEP should be provided with the authority to review, and right to deny, a proposed well transfer based on permit compliance and the adequacy of financial assurance and corporate solvency.

#### HB1144 is a Step in the Wrong Direction, for the Wrong Reasons

While we recognize that low commodity prices have hampered the conventional industry, that challenge is wholly unrelated to protection standards. It certainly does not warrant the unraveling of standards that have been in place, and practiced by both the conventional and unconventional industries, for decades.

EDF and PEC have continually stated our willingness to come to the table and work with the General Assembly, Administration, and conventional industry to develop an appropriate framework. House Bill 1144 is not that vehicle – it is a radical departure from both common industry practice and common sense.

We urge you to oppose this unsafe legislation.

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