



November 10, 2014

Mr. John Ryder
Pennsylvania Department of Environmental Protection
Bureau of District and Oil and Gas Operations
Rachel Carson State Office Building
15th Floor, P. O. Box 8765
Harrisburg, PA 17105-8467

Electronic copy sent to: ra-epoilandgas@pa.gov

**Re: Comments on Document Number 550-3000-001
Standards and Guidelines for Identifying, Tracking, and Resolving
Violations.**

Dear Mr. Ryder:

The Pennsylvania Environmental Council (PEC) respectfully submits the following comments on the Pennsylvania Department of Environmental Protection's (Department) proposed revision of the above-referenced policy.

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PEC is a statewide nonprofit organization representing citizens from throughout the Commonwealth. For several years, we have been deeply engaged on the issue of shale gas management in Pennsylvania, including representation on the Governor's Marcellus Shale Advisory Commission, as well as a participant in work groups convened by the Department and the Oil & Gas Technical Advisory Board for pending revisions to 25 Pa. Code Chapter 78, Subchapter C.

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We commend the Department for pursuing continuous improvement of its policies and regulations with respect to shale gas development. However, we are deeply concerned about a fundamental provision of this inspection and enforcement policy.

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Section III(A)(2) of the proposed policy, which details frequency of well inspections, states: "Each District Office should ensure that all wells are inspected *at least once* in accordance with the following schedule"¹ (emphasis added). The policy then lists 12 possible inspection events relating to the cycle of well development and restoration, including responses to

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¹ Document Number 550-3000-001 / DRAFT / Page 10

complaints or permit violations. However, it is clear by the language of the proposal that only one inspection is required.

Over the past several years and across two Administrations, the Department has made much of the fact that it has increased capacity for well inspection and enforcement. There is collective recognition that consistent well inspection is essential for proper management and environmental protection. Even the Marcellus Shale Advisory Commission, in its recommendations report, underscored this tenet,² which was subsequently reflected in the Act 13 of 2012 revisions to the Oil and Gas Act – requiring operators to provide the Department with notice prior to certain steps in the well development process.³

Inspection and enforcement is fundamental to the central mission of the Department. The proposed policy, in Section III(A)(2), fails that mission by relegating a core function into an aspirational objective. In fact, failure of the Department to sufficiently inspect well sites undercuts the entirety of the proposed policy, regardless of its other merits.

Based on this policy and corresponding statements made by agency personnel, this provision equates to an acknowledgement by the Department that it does not have the necessary resources to perform a core function, and/or it is disproportionately restrained by other administrative limitations with respect to well site permitting and enforcement. The solution to this problem is not creating undue leeway in necessary policy or guidance.

For that reason we believe this proposed policy ultimately fails its intended purpose.

If the Department is unable to maintain robust inspection, it has the responsibility to identify the cause and take affirmative and immediate steps to rectify any shortfall. Both the Department and Commonwealth are much better served by a comprehensive response that ensures that not only will the agency have the financial and staffing support needed to meet its obligations, but that it has also reconciled any competing policies that frustrate this commitment. While there is strong value in seeking ongoing improvement, that improvement must be reinforced and commitments must be met.

Unless the consistency and frequency of inspections is increased both in writing through this policy *and in practice by the Department*, this guidance fails both the mission of the Department and the citizens of the Commonwealth.

The Department should formally amend this policy to require greater consistency and frequency of inspection for each and every well site in the Pennsylvania. PEC has been steadfast in its call for strong regulation of the conventional and unconventional natural gas industry to protect environmental values of the Commonwealth. However, such regulation is potentially for naught unless backed by robust and implemented enforcement protocols.

² Recommendation 9.2.15 (Governor's Marcellus Shale Advisory Commission Report, July 2011).

³ 58 Pa.C.S. §3211(f)

Furthermore, the Department should conduct a public analysis on limitations to its monitoring and enforcement capabilities, whether due to funding/staffing or other administrative constraints. The findings of this analysis should guide all future amendments to policy, permits, or regulation to ensure the Department has the ability to fulfill its mission.

Thank you for your consideration.

Sincerely,



John Walliser
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Cc: Office of the Governor
Pennsylvania Department of Environmental Protection Citizens Advisory Council
Pennsylvania Environmental Quality Board