

MINUTES
OIL AND GAS TECHNICAL ADVISORY BOARD MEETING
May 16, 2012

A meeting of the Oil and Gas Technical Advisory Board (TAB) was held on May 16, 2012 in Room 105 of the DEP Rachel Carson State Office Building, Harrisburg.

TAB MEMBERS PRESENT

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT

Deputy Secretary Scott Perry, Kurt Klapkowski, Susan Ghoweri, Eugene Pine, M. Seth Pelepko, Stewart Beattie, Laura Henry, Todd Wallace, Joseph Lee, Jessica Shirley, Susan Weaver, Joyce Epps, Vincent Brisini, Kelly Heffner, Ken Reisinger, Robert Riley, and Darek Jagiela attended from DEP.

INTRODUCTION AND OPENING REMARKS

Chairman Robert Watson calls the meeting to order at 10:02 a.m. and introductions followed.

APPROVAL OF DRAFT MINUTES FROM THE PREVIOUS ADVISORY BOARD MEETING

Chairman Watson made a motion to approve the minutes from the February 16, 2012, Technical Advisory Board meeting, the other board members seconded. Minutes were approved.

PERMITTING UPDATE – GP-5

Joyce Epps, Director, Bureau of Air Quality, updated TAB on changes to GP-5, such as emission limits, best available technology, and siting limits of natural gas facilities in certain regions of the Commonwealth. She elaborated on the extended public comment period for the changes which went beyond the normal forty-five days. The Department received input from more than two hundred commentators. Joyce addressed several specific comments, discussing one from the Clean Air Council, stating it believed that the Department should not be granted the authority or discretion to determine whether or not a facility is exempt from GP-5 requirements. She then spoke of several comments received from the Environmental Protection Agency (EPA), such as the lack of a specified time period over which compliance is determined, causing practical enforceability issues. EPA also commented that a provision should be included to give the Department the right to request an air quality analysis that shows that a facility will not cause or contribute to a violation of the National Ambient Air Quality Standard (NAAQS) or threaten the Department's ability to use the Pennsylvania State Implementation Plan to achieve compliance with NAAQS. EPA indicated that the pollutant information requested in the GP-5 Application was not sufficient. All the comments the Department received are under review and will be summarized, then taken into consideration when developing the draft final GP-5. Gary Slagel asked if the Department could summarize the industry concerns submitted for GP-5 and submit

them to TAB, leading Chairman Watson to inquire for a date when TAB would receive the summarized comments.

PERMITTING UPDATE – WMGR-123

Kenneth Reisinger Director, Bureau of Waste Management, stated that WMGR-123 was recently finalized and consolidated three permits to allow treatment of oil and gas liquid waste. The Department expanded the permit to allow storm water and other types of liquid waste from oil and gas operations to be treated, rather than just frac fluid. Gary Slagel asked if there was an informal policy that WMGR-123 would be required for all impoundments holding flowback. Deputy Secretary Scott Perry responded by saying the storage of flowback would not require this new permit, but would still require the Department's oil and gas centralized impoundment permit, per existing policy. Perry stated that there has been interest shown in treating the wastewater on site, and that would require the new WMGR-123 permit. He also stated the Department has concerns about storing contaminated waters in large volumes in unregulated facilities offsite that have no closure requirements. In response to a TAB question concerning Acid Mine Drainage (AMD), Perry stated that if it does not meet the numbers specified in the AMD Whitepaper it is regarded as a potentially pollutational substance and needs to be stored in a centralized impoundment permitted by the Department or in pits or tanks at the well site.

BENEFICIAL REUSE OF DRILL CUTTINGS

Kenneth Reisinger spoke about reuse of drill cuttings and challenges of trying to categorize it due to differences in consistency from different areas and formations throughout the Commonwealth. He stated that about twenty percent of drill cuttings tested so far failed to meet parameters for being safe for reuse. He was unable to give TAB a timeline for implementation, due to the need for more information and sample gathering and ensuring that this is safe for the public. He mentioned the need for a centralized database standard where industry could report information about their drill cuttings for the Department to analyze similar to what the industry does privately now.

SRBC LOW FLOW PROTECTION POLICY

John Balay, Susquehanna River Basin Commission (SRBC), spoke of the SRBC's recent proposed policy, covering two main provisions - passby flows and conservation releases. The policy was based on a collaboration study between the SRBC, The Nature Conservancy, and the United States Army Corps of Engineers. Balay stated one of the primary objectives was to determine flow goals to guide withdrawal approval conditions, releases from storage during low flow periods, and cumulative water use. Another objective was to define when water withdrawals can be made throughout a year. He spoke of the consistent classification system across member states, providing more protection for small, higher quality water sources, and incentivizing withdrawals on larger, more sustainable sources. Breaking them down, he stated Class 1 would include headwaters and exceptional quality streams, Class 2 would include small rivers and medium tributary rivers, and Class 3 would include medium mainstem rivers and large rivers. He stated that most hydrologic analysis was done from flow statistics provided from the United States Geologic Service stream gage records. He then explained the passby flow and conservation release calculation methods which include the percent exceedance value method, the PA-MD IFS method, and de minimis withdrawals. He finished covering the policy by

discussing special cases and conditions such as; withdrawal limits, seasonal passby flows/conservation releases, project-specific instream flow studies, agency coordination, adaptive management, and reservation. He added that the public comment period on the policy ended on this day, May 16. Art Yingling then asked what the SRBC expects when people are requesting withdrawals, to which Balay responded that requestors looking for sustained withdraws should look toward Class 2 and Class 3 sources. Gary Slagel followed by asking what the SRBC's stance is on the withdrawal of AMD. Andrew Dehoff of the SRBC responded stating that the SRBC incentivizes the use of mine drainage and lesser quality waters. A short break occurred at the request of Chairman Watson.

AMD WHITE PAPER – EPA ENDORSEMENT ISSUES AND CONCERNS

Kelly Heffner, Deputy Secretary for Water Management, discussed the Department's AMD White Paper. She talked about the internal and external feedback the Department has received on the subject. Heffner stated the end use of the Department's White Paper will determine AMD treatment requirements and where it is stored. She then proceeded to discuss the changes that are being implemented such as broadening the definition of AMD to include mine-influenced water, clarifications to the process, clarifications to storage options and recommendations. She also talked about liability, referring to how Senate Bill 1346 may affect the use of mine-influenced water. She stated that the DEP has reached out to the EPA regarding this matter. She lastly stated the only remaining steps are to collect comments from Departmental Executive Staff and to finalize the forms and a fact sheet for the public.

SUBSURFACE ACTIVITIES UPDATE – CASING, CEMENTING AND WELL INTEGRITY UPDATE

Eugene Pine, Chief, Division of Subsurface Activities, spoke about the upcoming Well Casing and Cementing meeting to be held in State College on June 19, 2012, and the associated documents that would be discussed at them. He spoke about updates such as annular flows and pressures in regards to evaluating the integrity of existing wells. He stated that the flowchart and technical guidance document would be provided to the attendees prior to the meeting. He stated that the wells would be classified as a Tier 1, Tier 2, or Tier 3 status based upon the initial screening status. He explained that Tier 1 wells would be wells that don't exhibit any exceedance of any established criteria, Tier 2 wells would be wells that may exceed some of the criteria, but do not pose a substantial risk based on a risk assessment, and Tier 3 wells would be wells that clearly, based on the screening assessment, do pose a substantial risk, or stray gas has been detected or confirmed. Chairman Watson expressed concern at the classification process, and felt that a well is either safe or it is not. Deputy Secretary Scott Perry believes that the documents would help give credibility to the Department's decisions in regards to how to deal with wells that may be faulty.

PERMITTING UPDATE – ESCGP-2

Kurt Klapkowski, Director, Bureau of Oil and Gas Planning and Program Management, spoke about the comments received on the proposed ESCGP-2 packaged. Four hundred and fifty comments were received in total, breaking down to two hundred on the policy, two hundred on the permit, and fifty on the application package from approximately seventy different individual commentators. He said the Department has not developed a draft final package for an internal

review of ESCGP-2, but the estimated timeframe is for the first week of June. He responded to a question from TAB stating that the implementation plan will describe the transition from ESCGP-1 to ESCGP-2.

ACT 13 UPDATES – PERMITTING, GRANDFATHERING, BONDING AND OTHER ISSUES

Kurt Klapkowski stated that the Department is very busy trying to implement program changes resulting from the 2012 Oil and Gas Act and educating the public on these changes. New forms updated to comply with Act 13 are available on the Department's website. There are new bonding requirements for deep and shallow wells - defined by being more or less than six thousand feet total well bore length - with a six hundred thousand maximum bond for deep wells, two hundred and fifty thousand for shallow wells, for a total maximum of eight hundred and fifty thousand for operators. He described the bonding Administrative Implementation Plan and the reasoning behind giving shallow well operators a step process for meeting the new bonding requirements. Deputy Secretary Scott Perry then discussed the Grandfathering letter that was sent out by the Department to unconventional operators in regards to drilling an unconventional well in the new setback zones implemented in Act 13. The letter identified what the Grandfathering provisions are, what the various setback provisions are including flood plains, and which applications will be grandfathered. Kurt Klapkowski then spoke about the new requirement for the Department to submit SPUD data to the Pennsylvania Public Utility Commission for impact fee assessment. He mentioned data cleanup was being done by the Department for accuracy purposes, so that the impact fee could be applied correctly.

SPILL POLICY

Kurt Klapkowski spoke on the status of the Spill Policy, and briefly on comments that were received internally and externally in regards to it. He explained the cross program work being done within the Department and that he expected at the earliest a late summer roll out of the draft final Spill Policy.

CHAPTER 78 REVISIONS

Deputy Secretary Scott Perry discussed the outline that was read at the last TAB meeting in February 2012 regarding Chapter 78 Subchapter C revisions that are being proposed by the Department. He mentioned containment changes in regards to unconventional operator well sites, such as competency of pad liners. He also mentioned the Department's regulatory requirement to assess whether a permit is issued on a wells potential to impact a public resource. Perry said other major focuses are the management of waste at well sites, water withdrawal monitoring, and pipeline development issues. He gave a late November, early December 2012 target to try and implement these changes through proposed rulemaking before the Environmental Quality Board. He also stated he would like to shift towards electronic notification, reporting, and documentation.

ADJOURN

A motion to adjourn the meeting was made by Chairman Watson at 12:21 PM.