EXECUTIVE SUMMARY
Oil and Gas Well Permit Fees

(Amendments to 25 Pa Code, Chapter 78)

The Oil and Gas Act was passed on December 19, 1984, and established a $100 fee for oil and gas well permits. Section 201 (d) of the Act allows the Department to increase the fee by regulation, provided the fee "bears a reasonable relationship to the cost of administering" the Act. The Department has never increased the permit fee for traditional oil and gas wells despite escalating program costs. However, on April 18, 2009 fees for Marcellus Shale wells were increased through the final-omit rulemaking process.

At the same meeting that the Board approved the proposed rulemaking that is made final by this order, the Board also approved a final-omit rulemaking that increased permit fees for wells that produce natural gas from the Marcellus Shale formation. The proposed rulemaking also included the new Marcellus Shale permit application fees that were included in the final-omitted rulemaking to allow interested persons to comments on the new Marcellus Shale permit application fees as part of the proposed rulemaking. The Board committed to making appropriate changes to the Marcellus Shale permit application fees as part of the proposed rulemaking in response to public comments. On April 18, 2009 the final-omitted regulations increasing permit fees for Marcellus Shale wells were published in the Pennsylvania Bulletin and became final.

There are three considerations that support a regulation that increases the permit application fees authorized by the Oil and Gas Act. First, the costs of administering the Act have increased significantly since 1984 when the General Assembly establish the $100 fee that the Department currently charges. This $100 per permit application fee does not currently bear a reasonable relationship to the cost of administering the Oil and Gas Act. Indeed, in 2008 permit fees only provided 15% of the revenue needed by the Department to administer the Act. The remaining 85% was funded through the General Fund.

Second, the number of permit applications that the Department reviews annually has grown dramatically over the past several years. In 2000, 1,354 wells were drilled in Pennsylvania. In 2008 the Department issued 7,941 well permits – 7,451 of which were for traditional oil and gas wells. The Department's current staffing levels for the Oil and Gas program were established at a time when the Department reviewed considerably fewer permit applications than it reviews today. To properly review the number of applications that the Department currently receives and to inspect the operations at sites that currently posses a permit, the Department needs additional staff that the current $100 fee cannot support.

Finally, there continues to be significant interest in the development and recovery of natural gas resources from the Marcellus Shale formation that underlies much of Pennsylvania. Despite the recent economic downturn and the decline of natural gas prices, Marcellus Shale well permitting and drilling is increasing. In 2008, the Department permitted 451 Marcellus Shale wells. In the first 5 months of 2009, the Department permitted 569 Marcellus Shale wells.

The drilling and completion techniques that allow recovery of natural gas from the Marcellus Shale present new and expanded environmental considerations that the Department must evaluate to ensure the gas is recovered in an environmentally protective manner. Many of the environmental considerations are directly related to the use of water to recover natural gas from the Marcellus Shale formation. Extracting natural gas from the Marcellus Shale requires a process known as "hydraulic fracturing". Hydraulically fracturing the Marcellus Shale uses far greater amounts of water than traditional natural gas exploration. Large volumes of water are pumped into the formation, along with sand and other materials under high pressure, to fracture the rock surrounding the well bore. A single well can use millions of gallons of water to hydraulically fracture the rock. After the hydraulic fracturing process is completed, the wastewater must be properly managed.

The significantly greater use of water at Marcellus Shale wells creates a series of environmental issues during the drilling and development of a Marcellus Shale well. First, there are a number of considerations associated with withdrawal of water, including the need to monitor and restrict the amount of withdrawal to avoid dewatering streams and causing pollution. Under state water law, a person who withdrawals water in the amounts generally associated with Marcellus Shale well development must register the withdrawal with the Department. Second, there are a number of considerations associated with the use and storage of the water used for hydraulic fracturing at the well site or at other locations. Third, there are a number of considerations associated with the proper management, treatment, and disposal of the wastewater.

The Department expends considerable staff resources to review the additional information associated with a Marcellus Shale well permit. The fees provided by the final-omitted regulation provide the revenue needed to recover the Department's costs to properly evaluate a Marcellus Shale well permit application and to inspect the activities associated with Marcellus Shale well drilling. Therefore, the fees provided by the final-omitted regulation will remain unchanged.

The fees for traditional wells will be increased follows. The base fee for vertical wells is $250 with an additional $50 per 500 feet of well bore drilled from 2,000 feet to 5,000 feet and an additional $100 per 500 feet for the well bore drilled past 5,001 feet. Non-vertical wells have a base fee of $900 with an additional $100 per 500 feet of well bore drilled past 1,500 feet. An applicant for a vertical well with a well bore length of 1,500 feet or less for home use shall pay a permit application fee of $200.