



June 10, 2024

Representative Greg Vitali, Chairman  
House Environmental Resources and Energy Committee  
30 East Wing  
P.O. Box 202166  
Harrisburg, PA 17120-2166

Dear Chairman Vitali:

The Marcellus Shale Coalition (MSC) is a regional trade association representing over 140 companies engaged in the safe and responsible development of Pennsylvania's unconventional natural gas resources. On behalf of the MSC, I write to express several concerns regarding House Bill 2384, which is scheduled for a vote on June 11<sup>th</sup> by the House Environmental Resources and Energy Committee (Committee).

Before discussing these concerns, I would first note that this legislation was just introduced on June 5<sup>th</sup> and immediately scheduled for a vote by the Committee. Unfortunately, it appears that no members of the unconventional industry who may be directly impacted by this legislation were consulted in its drafting. Setting aside policy disagreements, consultation is crucial to better understand the impacts of proposed legislation and the unintended consequences that poorly crafted language may have beyond the stated purpose of a bill, which in this case is the prohibition of road or land application of brine. Such hasty drafting and consideration of statutory language is contrary to sound policymaking and good governance.

With this background, the MSC offers the following observations and concerns regarding HB 2384:

- **Definition of Residual Waste.** HB 2384 amends the Solid Waste Management Act to insert an additional provision within the definition of 'residual waste'. This provision specifies that oil-related and gas-related wastewater is residual waste.

This language is unnecessary as the current definition of residual waste already captures oil and gas related waste, including wastewater. Specifically, the descriptions of waste included in the definition of residual waste under Section 103 (1)(i) and (ii) clearly include oil and gas related waste. However, by limiting your added definition to 'wastewater', this may raise questions as to the classification of other oil and gas-related wastes.

The PA Department of Environmental Protection (PA DEP) recognizes that oil and gas-related waste is residual waste and has regulated it as such for years without issue. Regulations related to the operation of unconventional natural gas wells specify that such wastes are subject to the Department's residual waste requirements; such examples are replete throughout the regulations found at 25 Pa. Code Chapter 78a.<sup>1</sup>

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<sup>1</sup> Examples include but are not limited to: §78a.1; §78a.54; §78a.58; §78a.59(c); §78a.61; §78a.62; §78a.63; and §78a.64

The language in HB 2384 establishes a concerning precedent of defining a waste, not by its characteristics, but solely based upon the industry that generates it. This deviates from long held and widely understood practices and regulatory criteria related to waste management.

The current definition of residual waste in the Solid Waste Management Act sufficiently captures the wastes generated from oil and gas related activities, and the language contained in HB 2384 is incomplete, confusing and unnecessary.

- **Prohibition of spreading unconventional brine on roadways.** This language is unnecessary as such application for unconventional operators is already illegal in Pennsylvania. Specifically, 25 Pa. Code §78a.70 prohibits the road spreading of brine from unconventional wells for dust suppression and road stabilization. While this specific prohibition was promulgated in October 2016, to our knowledge unconventional operators have never sought to utilize their brine for road application. The MSC and industry supported the promulgation of §78a.70 because it reflected industry practice.
- **Incomplete listing of exceptions.** Section 304 (a)(2) of the bill (page 3 lines 17-20) incorporates exceptions for the land application of brine to certain scenarios already authorized under 25 Pa. Code Section 78a.60. Other exceptions for the handling of drill cuttings are also found within 25 Pa. Code Sections 78a.62 and 78a.63. For clarity, and to ensure that these provisions are not unwittingly being negated, HB 2384 should reference these sections to ensure that they are not impacted by the legislation.
- **Prohibition of vehicle equipment.** Section 304 (b) makes it unlawful for a vehicle transporting oil and gas related wastewater to be equipped with a mechanism that could be used to discharge wastewater in a manner prohibited by this legislation. Clearly, any truck transporting oil and gas related wastewater is going to be equipped with a mechanism to (lawfully) load and unload the waste at its point of origin and its point of unloading for lawful handling. This mechanism would presumably include, at a minimum, hoses and valves to facilitate this loading and unloading. Read literally, however, the prohibition in HB 2384 would make such equipment unlawful because it *“could be used to dispose, process, beneficially use or reuse”* wastewater in a manner prohibited by the legislation. Read and applied literally, this provision would shut down the ability of all operators to properly handle and transport wastewater in Pennsylvania.

Moreover, this section would also prohibit trucks that would legally apply non-oil or gas related brine for dust suppression, de-icing or road stabilization from doing so, because such trucks ostensibly would have the same equipment or mechanisms which *“could be used”* to apply prohibited oil and gas related wastewater.

This entire section is unnecessary, has significant and immediate consequences that would shut down all current industry operations related to wastewater handling and transport, and should be deleted from the legislation.

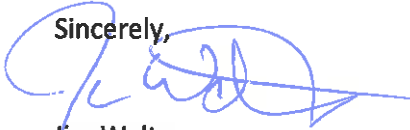
As has been demonstrated in other legislation considered by this Committee, and now with HB 2384, there is an apparent lack of understanding of not just the existing oil and gas industry laws and regulations in Pennsylvania, but also how the unconventional industry operates. Once again, we offer



you and other policymakers the opportunity to engage in a constructive dialogue to better understand the laws and regulations, including field visits for the purpose of better understanding how the industry operates.

In the interim, because of the issues identified above, it is clear that HB 2384 is not ready for consideration, and we encourage you to withdraw it until these concerns can be considered and addressed.

Sincerely,



Jim Welty  
Vice President, Government Affairs

cc: Honorable Martin Causer, Republican Chairman

