



August 7, 2023

Technical Guidance Coordinator  
Pennsylvania Department of Environmental Protection  
Policy Office  
Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

Re: **DEP ID: 800-2200-001. Title:** Guidelines for the Development and Implementation of Oil and Gas Well Site Integrated Contingency Plans for Unconventional Well Sites [**53 Pa.B. 3649**]. Submitted via eComment <https://www.ahs.dep.pa.gov/eComment/> and via electronic email: [ecomment@pa.gov](mailto:ecomment@pa.gov)

To Whom It May Concern:

The Marcellus Shale Coalition (MSC), a regional trade association with a national membership, appreciates the opportunity to submit comments regarding the above-referenced Draft Guidelines for the Development and Implementation of Oil and Gas Well Site Integrated Contingency Plans for Unconventional Well Sites (ICP TGD). The MSC was formed in 2008 and is currently comprised of approximately 140 producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal government officials and regulators to facilitate the development of the natural gas resources in the Marcellus, Utica and related geological formations. Our members represent many of the largest and most active companies in natural gas production, gathering, processing, transmission and utilization, in the country, as well as the supply chain companies, contractors and professional service firms who work with the industry.

The MSC appreciates the opportunity to offer the following comments on the Draft ICP TGD. The member companies of the MSC are proud of their cumulative efforts to date to strengthen domestic energy production, meet the needs of America's citizens and businesses, enhance our nation's national security, all the while doing so in a manner that protects and enhances our shared environment. The MSC offers the Pennsylvania Department of Environmental Protection (PA DEP or Department) the following comments.

### **General Comments**

1. The intent of a Technical Guidance Document is not to create new regulatory requirements, but rather to provide guidance both to Department staff and the regulated community on potential pathways to achieving compliance with existing statutory and regulatory standards. While the ICP TGD states that these are guidelines only, this document presents as a regulatory document that imposes new obligations upon the regulated community. It is impossible for a regulated entity that depends upon its

regulator for the permits necessary to stay in business to interpret these standards as anything other than regulatory obligations. It is clear that the TGD as written does impose binding requirement on regulated parties and is, therefore, rulemaking without following the legally require procedures.

The MSC recommends that the TGD be re-written in a manner that makes clear the provisions of the TGD are merely suggestions; are not the default or mandatory requirements which the Department expects the regulated community to adhere to; and that additional pathways to compliance are both acceptable and will be fairly considered by the Department.

2. The Department stated at the July 13, 2023, Triannual PADEP / Industry meeting that the ICP TGD was “optional” and the document provided a format should operators want to follow the ICP for one document instead of multiple documents. MSC is concerned that the Department will only accept the ICP approach if you follow the TGD exactly. Many unconventional operators already utilize the ICP approach combining the required PPC, ERP, Disposal and Containment Plans. The MSC strongly urges that all ICP formats should be acceptable as long as they meet the regulatory requirements. The Department should acknowledge that other ICP formats are acceptable if they meet the regulatory requirements and not the ICP TGD recommendations. This comment reinforces comment #1 above and underscores the importance of how this document is perceived both by PA DEP compliance staff and the regulated community.
3. The ICP TGD is more applicable to a permanent manufacturing facility as opposed to temporary oil and gas operations at an unconventional wellsite. During well development, the site is fluid. If industry were to follow every section of the TGD, an operator would have to be continually updating the contingency plan and by the time it was submitted, the operator would be on to the next phase of constructing the well.
4. The format of the ICP should be an optional approach. Flexibility in submitting the required information in an operator specific format should be permitted.
5. Should an operator choose to use the ICP TGD and its approach, if it is approved in one PA DEP regional office, it should be approved in all PA DEP regional offices. MSC members have experienced inconsistency across the regional offices in the approval of other documents that follow recently published guidance, such as Radiation Action Protection Plans.
6. The MSC has concerns around personal information and security, such as the information that is posted online that is accessible by the public. This includes personal cell phone information, home addresses, and specific security measures in place for each site. This information may have valid application for use by PA DEP, but not by the public. The MSC recommends that the Department remove this information prior to uploading it for public consumption on OGRE.

7. The MSC supports the Department creating a centralized submission location. Once a plan is submitted, every state/ local agency would have access to the most recent plan in one central location. This would help avoid logistical troubles with providing all of the most current, updated plans to a variety of recipients.

### Specific Comments

1. Section I – Plan Introduction, Plan Review and Record of Revision, Page 4 – “This section should document the date of the initial development of the plan, as well as every subsequent update made to the plan. This section should be formatted as a table and contain the change number, the date the change was made, and a summary of the changes made to the plan. Any relevant information may be included as well.”

This would be manageable if referring to a manufacturing site, but well pad development is a fluid construction project. This section could be endless in the amount of changes required for several months depending on the number of wells on a pad. The MSC recommends that this section be revised and would welcome a discussion on this matter.

Further, the plans being incorporated into the ICP TGD have very different timelines for review in accordance with regulations. The MSC questions how this guidance would be utilized for all of the different timelines for the different documents while ensuring this document is a practical option for operators.

2. Section I – Plan Introduction, Certification of Annual Review and Promulgation Page, Page 5 - There are no specific Certification of Signature requirements in the 78a.55 ERP or PPC regulations, nor in Act 13 of 2012, (58 Pa.C.S. Sec. 3218.2) requirements. The MSC recommends that these two sections, and associated references to certifications, signatures, and a promulgation page throughout the document, be removed from this TGD, unless a specific regulatory requirement is cited for such certification or signature.
3. Section I – Plan Introduction, Plan Availability, Page 5 - It appears this section should refer to ICP rather than PPC. The purpose of the ICP was to create “one plan”; therefore, using terminology such as ERP and PPC throughout the ICP creates confusion.
4. Section I – Plan Introduction, Plan Availability, Page 5 - The Department states, "A current copy of the Preparedness, Prevention, and Contingency plan (Section III) must be maintained on-site during construction activities, drilling, and completions" "A copy of the ERP (Sections IIA and IIB) shall be available at the well site during all phases of operation. Describe where to find the integrated plan."

While well development activities are ongoing, a physical copy of the plan on the well pad is expected. After development activities have ceased and the wells are in production/operations, digital copies should meet the Department's requirements of "shall be available." This is a formal request that the Department allow digital storage of ICP/PPC/ERP documentation on well sites where conditions allow for digital storage.

5. Section I.8 – Quick Sheets, Page 7 – Section A asks for the “Operator/Owner” name to be provided twice, MSC recommends removing the second “Operator” name.
6. Section I.8 – Quick Sheets, Page 7 - The MSC recommends removal of the “General Permits, WMGR-123, ESCGP, API #(s)” as they provide limited value in the event of an incident and would be burdensome to keep updated.
7. Section I.8 – Quick Sheets, Page 7 - The MSC recommends removal of the “Access Road Municipality/County” as the site permits are tied to the well pad municipality/county. The “Well Pad – County, municipality” is already included.
8. Section I.8 – Quick Sheets, Page 7 - The MSC recommends the removal of the EMA, Police, Fire, EMS, and Hospital contacts as 911 should be utilized in emergency situations. 911 dispatches the appropriate responders and folks are generally discouraged from contacting a specific responder in the event of an incident.
9. Section I.8 – Quick Sheets, Page 7 - The MSC recommends the removal of the helipad location, as this is not the responsibility of the operator.
10. Section I.8 – Quick Sheets, Page 7 - It is unclear as to where the directions to the site should originate from.
11. Section I.8 – Quick Sheets, Page 8 - Site Evacuation Signal - This section is only relevant when contractors are on site during drilling, completions, or workover. It does not appear necessary to have a muster point if no one is working on-site during production. Further, operations occur at well sites that are not directed by the operator but rather a contractor, in those instances a contractor will establish their own specific muster point and evacuation signal.
12. Section I.8 – Quick Sheets, Page 8 – Surface Owner Contact - Surface owners may not want their name and telephone number to be public knowledge. Operators maintain this information and can provide it to Emergency Responders in the event it is necessary.
13. Section I.8 – Quick Sheets, Page 8 – Location of Safety Data Sheets - This is already included in the Emergency Response Plan with the EPCRA Tier 2 information and appears to be unnecessary.
14. Section I.8 – Quick Sheets, Page 8 - Critical Information for First Responders - Too ambiguous as far as critical information. To try and determine what is critical information for a fire department would depend on the type of department (paid, volunteer, combination) rural or urban, equipment and training. EMS would be the same. The MSC recommends removing this section.
15. Section I.8 – Quick Sheets, Page 9 – Emergency Response Procedures for Site Personnel - This information is included in the Site-Specific Emergency Response Plan and does not appear necessary here.

16. Section I.8 – Quick Sheets, Page 9 – Explosions - It is unclear what the expectation of this section is. The MSC recommends removing.
17. Section I.8 – Quick Sheets, Page 10 - Site Location Map – There is too much information on the map to be an effective tool for on-scene personnel.

The MSC recommends that the map should be a 2000 scale project location map. The purpose of this map should be to geographically orient yourself to the surrounding area, specific features may be more appropriate on the Site Detail Map as it is focused on the area immediately surrounding the wellsite. Operators should have discretion to decide what figure is best fit for the necessary features.

An aerial base map may not be best choice (previously wooded, farmland, etc.), as aerials may not be available for the area.

These location maps should be clear and concise with topography, radius buffers, structures, waterways and well information. Operators should only be required to provide publicly available information.

First responders should know their hazards and, including the AHJ and the LEPC, they have plans for these areas. This information is duplicative of contingency plans municipalities and counties already have.

18. Section I.8 – Quick Sheets, Page 11 - Site Detail Map - With the detail requested, this would change during each phase of well development. This map would change every 12-24 hours for the better part of a year and does not seem reasonable or practical. The MSC recommends removal from the ICP. This is not a recommendation for other industries in Pennsylvania.
19. Section I.8 – Quick Sheets, Page 11 - Site Detail Map - It is unclear what is meant by a construction site plan.
20. Section I.8 – Quick Sheets, Page 11 - Site Detail Map - The DEP/PEMA should develop an online mapping tool that has these layers and a template already created where the operators can create these maps; this would support uniformity.
21. Section IIA – Emergency Response Plan Site-Specific Information, Page 16 - Both Act 9 and 25 Pa. Code Chapter 78a already outline detailed guidance regarding the preparation of a site-specific Emergency Response Plan. This section should be consistent with that regulation/guidance, and not add additional requirements. Operators have spent a great deal of time preparing both site specific and master Emergency Response Plans within those previously established regulations and guidelines.
22. Section IIA – Emergency Response Plan Site-Specific Information, Site Maps and Drawings, Pages 16-17 - For consistency with the regulatory language at

78a.55(i)(5)(i)(G), the MSC recommends that the item related to showing the ½ mile radius on maps or drawings be revised as follows:

“½ mile radius showing relevant with vulnerable receptors that are taken into account for the summary of risks and hazards to the public addressed in Section IIA.3 (e.g. human populations, both workers and the general public, environmentally sensitive areas, and other site-specific concerns)”

Several of items listed for inclusion on maps and drawings go well beyond the level of detail specified in 78a.55 or Act 13, and many of those details change throughout the well site construction through production phases. Examples include:

- Location of storage areas for regulated substances with ranges of quantity stored
- Describe valving and manifolding
- Waste handling, storage, processing and treatment facilities
- Restricted and open-access areas (which will be situation dependent and very different during emergency response vs during normal operations)
- Placement of containment systems

23. Section IIA – Emergency Response Plan Site-Specific Information, Site Maps and Drawings, Page 17 - The identification of any known public (permitted and docketed) surface water intakes downstream is not a regulatory requirement for oil and gas. The MSC recommends the deletion of this recommendation.
24. Section IIA – Emergency Response Plan Site-Specific Information, Site Maps and Drawings, Page 17 - Restricted and open-access areas are not common at unconventional well sites and if these areas existed, they would change according to specific site activities and would be properly demarcated on site and too difficult to put on a map. The MSC recommends the removal of this recommendation.
25. Section IIA – Emergency Response Plan Site-Specific Information, Site Maps and Drawings, Page 17 - The placement of containment systems changes too often and is difficult to keep up to date on a map. Further, not sure what value this provides in the event of an emergency.
26. Section IIA – Emergency Response Plan Site-Specific Information, Material and Waste Inventory, Page 17 – Electronic copies of SDS are typically used. Each contractor is required to have their own SDS for the materials their employees are using, so there may be several SDS collections on site.
27. Section IIA – Emergency Response Plan Site-Specific Information, Material and Waste Inventory, Page 17 – “The approximate quantities of each material and the method of storage (sack, barrels, tanks, etc.) should be specified.” This is Tier Two information that is already required and is duplicative reporting. Operators pay through the Tier II program so this information can be provided in the event of an emergency. Given this, it appears that this information is unnecessary to include in this document.

28. Section IIA – Emergency Response Plan Site-Specific Information, First Responder HAZMAT Briefing Procedures, Page 18 - This section header uses the term “HAZMAT,” then simply refers to “these materials” in the paragraph text, presumably referring to HAZMAT. The term HAZMAT generally refers to materials classified as “Hazardous Material” under U.S. DOT regulations, but that isn’t defined in the document and should be clarified to ensure a consistent understanding of the scope of this section.
29. Section IIA – Emergency Response Plan Site-Specific Information, First Responder HAZMAT Briefing Procedures, Page 18 - The Federal HAZMAT regulations do not require names and titles. USDOT requires a phone number with someone knowledgeable about the hazards of the material, safe handling and clean-up procedures. Additionally, as written, the name and title of the individual will change numerous times throughout the process due to shifts and crew changes. All this information is provided in the EPCRA Tier II Reporting system for easy deployment to emergency personnel.
30. Section IIA – Emergency Response Plan Site-Specific Information, Method of Transportation of Natural Gas, Page 18 - This section calls for information beyond the well site (such as gathering lines, compressor stations, and potentially offsite monitoring/metering stations and pigging stations), and as such, is beyond the stated scope of this guidance document and should be removed, or clearly limited only to the associated equipment and facilities within the well site boundary.
31. Section IIA – Emergency Response Plan Site-Specific Information, Local Emergency Response Agencies and Hospitals, Page 20 - It is unclear "what arrangements" need to be made. Information regarding materials and waste at the site are maintained in the EPCRA Tier II reporting system, which the emergency response agencies can access.
32. Emergency Response Plan Site-Specific Information, Downstream Notification, Page 20 - The ICP should describe how far down stream. Even the Storage Tanks regulations provide some measure to how far the notification must go. Oil & Gas is exempt from this requirement.
33. Emergency Response Plan Site-Specific Information, Evacuation Plan, Page 21 – Generally, evacuations are NOT undertaken by operators. These are in the hands of the first responders to manage and determine who/when to evacuate based on information provided by the operator. The MSC recommends this be removed.
34. Emergency Response Plan Site-Specific Information, Alert Notice, Page 21 - This is not required of any other industry in Pennsylvania, that includes those that use chlorine. A canned announcement should not be part of the plan. Crisis team leadership and legal will develop based on the situation.
35. Emergency Response Plan Site-Specific Information, Media Relations Procedures and Statement, Page 22 – They should not be a recommendation in the ICP. Media relations/statements are very incident specific and are often not able to be planned in

advance, and by definition, fail to take into account the unique circumstances of the event.

36. Section IIB Emergency Response Plan Base, Due Diligence Activities, Page 26 - The potential scope of this section, as drafted, is too undefined and potentially expansive, since there is essentially no way to predict what relatively routine activity, if not performed correctly, could lead to an emergency. The MSC recommends that this section header and the introductory paragraph be revised as follows:

The purpose of this section is to outline operators' procedures in performing due diligence work at the unconventional well site that, if not conducted, could cause an emergency at the well site. ~~At a minimum~~ For example, this section should specifically discuss activities such as spill or leak prevention, preventative maintenance, and discharge and drainage control at the site. ~~The operator shall also identify and discuss any other areas of non-emergency work that must be conducted on-site to prevent an emergency incident.~~

37. Section III, Prevention Planning, Hazard Assessment, Page 29 - The section seems repetitive/duplicative of the Hazard assessment under Section IIA.3, so it's unclear why it is being repeated here in Section III. If retained in Section III, for consistency with the regulatory language at 78a.55(i)(5)(i)(G), the MSC recommends that the 1<sup>st</sup> paragraph of this section be revised as follows:

~~“Provide a detailed assessment summary of potential hazards present at the well site and of the risks and hazards to the public , an analysis of vulnerable receptors (e.g., human populations, both workers and the general public, environmentally sensitive areas, and other site-specific concerns) within ½ mile of the well site, along with and~~ a discussion of which risks deserve primary consideration during an incident. Incidents may occur via accident, carelessness, maliciousness, or weather and affect impoundment, production, processing, transportation, storage, use, and application or disposal of pollutants.”

38. Section III, Prevention Planning, Pressure Barrier Policy, Page 29 - The section should reference the Departments new Pressure Barrier TGD

39. Section III, Prevention and Monitoring Program, Page 30 - The MSC recommends that the 3<sup>rd</sup> to last sentence in this section be revised by removing the word “immediately,” as follows:

“Monitoring systems should be used in conjunction with a communications or alarm system to ~~immediately~~ notify personnel of abnormal conditions as soon as practical.”

As drafted, the reference to “immediately notify personnel” could imply that all monitoring systems must be continuous monitoring, which is unnecessary and unjustified, and not all situations require immediate notification of personnel to be adequately addressed. This section would benefit from clarification as recommended above.

40. Section IV, Training, Exercise, and Plan Development, Page 33 - The ICP should not specifically recommend records of the employees' attendance in the training program in personnel files and/or site logs or files, as it is not in current regulation. This should be part of individual company policy.
41. Section IV, Training, Exercise, and Plan Development, Page 33 – Remove the “Coordination” section as this is not a requirement. An operator may elect to communicate training events with County EMA, but it would be 100% optional.
42. Section IV, Training, Exercise, and Plan Development, Page 33 – Listing reportable pollution or reportable safety incidents in the plan is not a regulatory requirement and should be removed from this TGD. This list is maintained separately and can be provided upon request. Keeping this list “evergreen” in site specific plans would be burdensome.

## **Conclusion**

The MSC and its member companies take great pride in their efforts to conduct operations safely, efficiently, and in a manner that protects our shared environment and local communities, while at the same time meeting the critical energy needs of our citizens. We welcome the opportunity to discuss in greater detail any questions or need for clarification that you may have regarding our comments.

Sincerely,



David E. Callahan, President  
Marcellus Shale Coalition