



January 20, 2026

Policy Office
Pennsylvania Department of Environmental Protection
16th Floor Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105

Re: Draft Policy for Erosion and Sediment Control and Stormwater Management for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment Operations or Transmission Facilities [55 PA.B. 8318]. Submitted via eComment and 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 Policy. The MSC was formed in 2008 and is currently comprised of approximately 155 producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal officials and regulators to facilitate the responsible 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 submit comments for consideration on the Draft Policy for Erosion and Sediment Control and Stormwater Management for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment Operations or Transmission Facilities (Draft Policy) to the Pennsylvania Department of Environmental Protection (PA DEP or Department). We ask that you consider these comments developed by the MSC on the Draft Policy.

1. Page 4, Paragraph 2 – The Draft Policy states that *“DEP interprets Section 3216(c) of the 2012 Oil and Gas Act to mean that post drilling restoration includes the restoration of well development impoundments. Well development impoundments must be restored within nine (9) months of the completion of drilling the last well services by the impoundment or expiration of the last well permit that the impoundment was intended to serve.”*

The MSC points out that while this language is consistent with Section 3126(c) of the Oil and Gas Act, industry would prefer that the Draft Policy include the language within Chapter 78a.59b(g), *“Well development impoundments shall be restored by the operator that the impoundment is registered to within 9 months of completion of hydraulic fracturing of the last well serviced by the impoundment.....”*, as it is more specific to the scenario of restoration.

2. Page 9, Scope of Permitted Area, Well Sites – The Draft Policy defines Well Sites, *“Pursuant to 25 Pa. Code §§ 78.1 and 78a.1, a well site is defined as the area occupied by the equipment or*

facilities necessary for or incidental to the drilling, production or plugging of a well. At a minimum, a well site includes construction of the well site and access roads. Accordingly, the well site and access roads are substantially connected and constitute a project for 25 Pa. Code § 102.5(c) solely for permitting purposes. For multiple well sites that are concurrently under construction with a common access road, the well sites and access road are substantially connected and constitute a project. Well sites constructed along a common access road are substantially connected to every other well site that is concurrently under construction along the common access road and constitute a project. For purposes of defining the project for permitting, DEP considers a well site to be under construction until DEP receives the well site's restoration report".

Historically, MSC members have observed that after an operator obtains a Notice of Permit Termination (NOT) for an ESCGP permit for a pad and access road - smaller projects located within 900' or even 1320' were not considered substantially connected (regardless of the post drilling-well site restoration report (WSRR) status) and these small projects required no new ESCGP permit if they were <5 acres of LOD (assuming other special conditions don't exist that would force a permit).

If the MSC is interpreting the Draft Policy correctly, The PA DEP is now considering the well pad (and access roads) 'under construction' until the WSRR is submitted 'for purposes of defining the project for permitting' – what previously were “small projects”, are now substantially connected and will require a new ESCGP permit.

An ESCGP NOT closes out the permit, so no land disturbance is authorized under the previously approved ESCGP. The Post Drilling-WSRR is a 'reporting obligation' that notifies the Department that the final permitted well on a well pad was drilled and restored as defined under 78a.1. In some project instances the ESCGP NOT is approved by PA DEP before the Post Drilling-WSRR is able to be approved. The **bold sentence** above is confusing because it appears to supersede a 'reporting obligation' with a 'permitting' requirement trigger.

The MSC requests that the Department provide additional information in the Draft Policy on the Scope of the Permitted Area, specifically well sites, observing the definition of a well site in Chapter 78a and the way the Department has historically approved ESCGP NOTs while observing the Post-Drilling WSRR reporting obligation.

3. Post Drilling Restoration Requirements – While not specifically within the Draft Policy, the MSC suggests that the Department provide for flexibility related to permanent and temporary stabilization. A well site that has an active ESCGP permit and at a minimum is temporarily stabilized, should not need to achieve 70% uniform vegetative growth across the entire well site to achieve compliance with post drilling restoration requirements. Operators are receiving violations for following their site restoration plan but lacking vegetative growth in some areas of the well site. Department inspectors should take into consideration that if an operator has an active ESCGP permit, they are required to establish permanent vegetation just prior to the expiration date of the permit. Therefore, the nine-month restoration requirement is unnecessary in terms of permanent stabilization.

4. Page 11, Support Facilities, Paragraph 1 – The MSC requests that the Department add Chapter 78a.59b, to the list of sections as a reference specifically for Well Development Impoundment restoration. Well Development Impoundment requirements are different than the other support facilities listed. 79a.59b specifically states, *“Well development impoundments shall be restored by the operator that the impoundment is registered to within 9 months of completion of hydraulic fracturing of the last well serviced by the impoundment...”*

Thank you for your consideration of these comments. Should you need any additional information or clarification, please do not hesitate to contact me.

Sincerely,



Patrick Henderson, Vice President
Government Affairs and Communications

