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INDEPENDENT REGULATORY  
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REVIEW COMMISSION

2012 NOV 29 AM 11:14

# Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency  
Department of Environmental Protection

(2) Agency Number:  
Identification Number: #7-479

IRRC Number: 2979

(3) PA Code Cite: 25 Pa. Code Chapter 78 Subchapter I

(4) Short Title:  
Emergency Response at Unconventional Well Sites

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Michele Tate (717) 783-8727 mtate@pa.gov  
Secondary Contact: Patricia Allan (717) 783-8727 pmallan@pa.gov

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This emergency regulation will enable county first responders and other emergency responders to find and access unconventional oil and gas well sites in the case of an emergency. Many of Pennsylvania's unconventional oil and gas well sites are located in very remote areas with limited access to infrastructure. This regulation will require unconventional oil and gas well operators to identify where their sites are located through GPS coordinates and street address, and notify entities that may respond to an incident at that location. Operators will be required to post a sign at each unconventional oil and gas well site access road with the address of the site. They also must prepare and implement an emergency response plan that will ensure the safety of all employees and first responders in the event of an emergency on the well site. This regulation was developed in response to Act 9 of 2012.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Act of February 2, 2012, P.L. 67, No. 9, 35 Pa.C.S. § 7321

Emergency regulations. -- The agency and the Department of Environmental Protection shall adopt emergency regulations directing the operators of all unconventional wells within this Commonwealth to do all of the following:

- (1) Adopt a unique GPS coordinate address for each unconventional well at both the access road entrance and well pad site.
- (2) Register that address with the agency, the Department of Environmental Protection and the county emergency management organization within the county where the unconventional well is located.

- (3) Require the development of an emergency response plan and file that plan with the agency, the Department of Environmental Protection and the county emergency management organization with jurisdiction over the unconventional well. The county shall disseminate the GPS address and emergency response plan to the local emergency management organization in which the unconventional well is located.
- (4) Post reflective sign at the entrance to each unconventional well site with the specific address of that site, the coordinate for the site, the emergency contact number for the operator and such other information as the agency or the Department of Environmental Protection deems necessary.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This regulation is mandated by state law - Act of February 2, 2012, P.L. 67, No. 9, 35 Pa.C.S. § 7321

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Local first responders and emergency management officials have expressed concern that it may be difficult for them to find well sites should an emergency occur, such as a blowout, fire, spill or crushing injury, particularly in vast, undeveloped regions of the Commonwealth. Prior to Act 9 of 2012, well operators were encouraged through industry Best Management Practices to report their latitude and longitude to DEP and the Department of Labor and Industry, but they were not required to share their addresses with local first responders or the county Emergency Management Agency. Act 9 addressed the needs of first responders by requiring all unconventional operators to adopt a unique GPS coordinate address for each unconventional well site at both the access road entrance and well site; register the address with PEMA, DEP, and local county emergency responders; require the development of an emergency response plan and file the plan with PEMA, DEP, and the county emergency management organization; and post a reflective sign at the entrance to each unconventional oil and gas well site.

All employees of unconventional oil and gas well operators and subcontractors employed on an unconventional well site will benefit from this regulation through the added safety requirements. According to the Pennsylvania Department of Labor and Industry, in the first quarter of 2012 there were 29,810 persons employed in six core industries related to all oil and gas drilling (conventional and unconventional). All Pennsylvania residents that live near unconventional well sites will also benefit from increased response time to mitigate emergencies and threats to their properties. All first responders and emergency responders that will respond to an incident on a well site will benefit from the added information gained through the well site emergency management plans submitted to the county emergency management organizations.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards for emergency response at well sites. However, there are standards for workplace safety which these regulations do not infringe on.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Most states do not have unconventional drilling; therefore they would not have laws or regulations that regulate the emergency response at unconventional oil and gas well sites. DEP does not believe that this regulation will affect Pennsylvania's ability to compete. In fact, DEP believes the rulemaking will be supported by operators because it establishes consistent statewide standards for signage and emergency planning that will be easier to implement in lieu of patchwork standards that may vary by county.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

DEP and PEMA engaged the Marcellus Shale Coalition (MSC) and industry emergency response specialists early in the drafting process of this regulation, as well as representatives of local government. MSC represents a broad constituency of operators, including those that classify as small businesses.

DEP received feedback during presentations and discussions with the following:

- The Oil and Gas Technical Advisory Board on August 15, 2012. (The Oil and Gas Technical Advisory Board is made up of five Pennsylvania citizens, 3 of which are a petroleum engineer, a petroleum geologist, and an experienced driller representative; one mining engineer from the coal industry; and one geologist/petroleum engineer selected by the Citizen's Advisory Council.)
- The Marcellus Shale Coalition, the American Petroleum Institute (API), and the Pennsylvania Independent Oil and Gas Association (PIOGA) Roundtable on August 22, 2012. (PIOGA represents over 950 members such as oil and natural gas producers, drilling contractors, service companies, manufacturers, distributors, professional firms and consultants, royalty owners, and other individuals with an interest in Pennsylvania's oil and gas industry, including small businesses.)
- The Marcellus Shale Coalition and their Emergency Response subject experts, PEMA, Lycoming County Emergency Response, and Department of Conservation and Natural Resources on August 27, 2012 and September 10, 2012.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

This regulation affects all employees of unconventional oil and gas well operators and subcontractors employed on unconventional well sites by providing increased emergency response time and emergency response planning. According to the Pennsylvania Department of Labor and Industry, in the first quarter of 2012 there were 29,810 persons employed in six core industries related to all oil and gas drilling (conventional and unconventional).

This regulation affects companies that operate natural gas wells in unconventional formations, such as the Marcellus Shale. These companies will be required to adopt addresses for access roads and well sites; register the address with PEMA, DEP, and the county; develop, submit and implement an emergency response plan with PEMA, DEP, and the county; and post a reflective sign at the entrance to each unconventional well site and access road.

According to the U.S. Small Business Administration, for NAICS codes 211111 (Crude Petroleum and Natural Gas Extraction) and 213111 (Drilling Oil and Gas Wells), businesses with less than 500 employees are considered by the U.S. Small Business Administration to be small businesses. According to the Department's permitting records, there are currently 73 operators of unconventional well sites in Pennsylvania, and that number is not expected to change significantly in the near term.

The Department has attempted to identify the number of operators in Pennsylvania that have less than 500 employees, by contacting the Pennsylvania Department of Labor and Industry's Center for Workforce Information Analysis for data from the Quarterly Census of Employment and Wages (QCEW). QCEW derives its data from quarterly tax reports submitted to the Pennsylvania Unemployment Compensation system. Unfortunately, most unconventional oil and natural gas well operators are national or international companies and the Pennsylvania Department of Labor and Industry's data is limited to Pennsylvania. The Marcellus Shale Coalition, an industry association that represents the majority of exploration, production, midstream, and supply chain partners of unconventional natural gas drilling in Pennsylvania, has estimated that less than half of the operators affected may be classified as a small business.

This regulation also affects local emergency responders by providing detailed emergency planning information related to the specific hazards that unconventional well sites may have. There are currently 38 counties with unconventional drilling activity. Each county has several emergency response organizations.

(16) List the persons, groups or entities, including small businesses, which will be required to comply with the regulation. Approximate the number that will be required to comply.

There are currently 73 operators of unconventional oil and gas well sites in Pennsylvania which will be subject to the new requirements. The Marcellus Shale Coalition has estimated that less than half of the operators affected may be classified as a small business.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the

benefits expected as a result of the regulation.

There are two main costs associated with this regulation: the sign and the emergency response plan. DEP deliberately did not specify the type of material that a sign should be constructed of allowing each individual operator to determine which sign type is best for their company. DEP reached out to several companies for cost quotes, and signs are estimated to cost between \$150 for a fiberboard sign (a plastic-like material) and \$600 for an aluminum sign. Fiberboard signs are expected to last at least 8 years, where aluminum signs may last for decades. The emergency response plan cost is minimal because DEP decided to include it as part of the Preparedness, Protection and Contingency Plan (PPC) which is already required as part of 25 Pa Code § 78.55.

The benefits of this regulation are difficult to quantify because it involves reducing the threats to human life and environmental health several different ways. By supplying each well site with unique GPS coordinates and a street address, increased response time for emergency responders during an event can be expected. This will increase the health and safety of the workers on the well site in the event of an emergency. By supplying DEP, PEMA, and the county emergency response organization with an emergency response plan, emergency crews responding to a well site will benefit from the extra knowledge of what the possible risks are unique to the individual well site they may be responding to. With the increased time of response and increased information to responders, there will be added protection of property to the neighbors and nearby landowners, in the event that an incident occurs.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The costs of this regulation are minimal in comparison to potential benefits of emergency response. The cost of a sign and planning requirement does not compare to the possible human health and safety benefits, and the benefits to the environment. DEP has made every effort to incorporate the new requirements into already existing requirements of the industry. This is not a burdensome requirement as industry already recognizes the importance of locational address markers and many have incorporated this as a BMP within their industry practices.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

### **Signs**

Each access road to an unconventional well site must have a sign posted, however DEP is unable to confirm with certainty the number of access roads to unconventional oil and gas well sites there are throughout the Commonwealth. DEP's district office of oil and gas operations has estimated that each access road serves three wells.

Number of unconventional wells: 5,796 (through July 2012)

Number of access roads = # of wells ÷ 3

*Calculation:*  $5,796 \div 3 = 1,932$  access roads

DEP reached out to different oil and gas operators to derive the cost of the sign.

One operator that chooses to use a fiberboard material for their sign construction contacted their sign

manufacturer and based on the specifications outlined in the proposed regulation, they expect each new sign to cost \$150.

*Calculation:*  $\$150 \times 1,932 = \$289,800$  - low estimate (if all operators choose to use fiberboard signs at every unconventional well site access road)

An operator that chooses to use aluminum as the material for their sign construction contacted their manufacturer and based on the specifications outlined in the proposed regulation, they expect each new sign to cost \$600.

*Calculation:*  $\$600 \times 1,932 = \$1,159,200$  – high estimate (if all operators choose to use aluminum signs at every unconventional well site access road)

### **Emergency Response Plans**

Each emergency response plan will be similar for each county that an individual operator drills in. The operators will be required to develop an emergency response plan that provides for equipment, procedures, training and documentation to properly respond to emergencies that threaten human health and safety for each well site. Most of this information is contained within the Preparedness, Prevention, and Contingency (PPC) Plan, which is an existing requirement under 25 Pa Code § 78.55. Each oil and gas operator will now be required to have a summary of the risks and hazards within ½ mile unique to the individual well site. This would include risks such as: nearby elementary schools, nearby industrial activities, high quality streams, etc.

The cost of the emergency response plan will be minimal because it is part of existing industry practices. Operators will now be required to submit the emergency response portion of their PPC plan to the County, PEMA, and DEP if requested.

### **Future costs**

On average, there are 3,000 wells drilled each year.

Calculation:  $3,000 \div 3 = 1,000$  new access roads each year

$1,000 \times \$150 = \$150,000$

$1,000 \times \$600 = \$600,000$

### **Uncertainties**

It is difficult to estimate the future cost to the industry because there are a number of related uncertainties. For instance, DEP anticipates that in future years operators will be building less access roads (and will therefore need to buy fewer signs) because they will be drilling more wells on already existing well sites. It is also difficult to predict how many wells will be drilled because of market factors, such as demand and the resulting price of gas. If the price of gas remains low, fewer wells will be drilled. If demand for gas increases (such as for heating or vehicle sources), the price will increase and more wells will be drilled. If new access roads are constructed to new well sites, more signs will be needed.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Costs to local governments are minimal. They will be required to provide addresses to each unconventional well site, a service they already provide to county residents, and to store the emergency response plans of the unconventional operators in their county.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no cost to state government.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

DEP has worked with oil and gas industry representatives on the development of this rulemaking and this is the least burdensome option. DEP and PEMA, in consultation with the regulated industry and local emergency response organizations, have chosen the least burdensome option to fulfill the requirements of Act 9 of 2012. This proposed regulation has requirements that most companies are already implementing through industry best management practices. Operators will be able to incorporate their Emergency Response Plans into their PPC Plans, which are already required under 25 Pa. Code §78.55. Instead of requiring the operator to submit new plans for each well site annually, they may submit a statement indicating a review of their plan was completed and no updates were necessary. DEP has also allowed a transition period of 90 days for an operator to develop and submit their emergency response plans.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
<b>Regulated Community</b>	289,800 – 1,159,200*	150,000 – 600,000*				
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Costs</b>	289,800 – 1,159,200*	150,000 – 600,000*				

<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

\*This range is determined by whether each individual company decides to use fiberboard or aluminum for their signs.

(23a) Provide the past three year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>
Environmental Program Management (#161-10382)	\$31,100,000	\$28,881,000	\$25,787,000	\$24,965,000
Environmental Protection Operations (#160-10381)	\$84,218,000	\$78,021,000	\$88,879,000	\$74,547,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

(a) An identification and estimate of the number of small businesses subject to the regulation.

This regulation affects companies that operate natural gas wells in unconventional formations, such as the Marcellus Shale. According to the U.S. Small Business Administration, For NAICS codes 211111 (Crude Petroleum and Natural Gas Extraction) and 213111 (Drilling Oil and Gas Wells), businesses with less than 500 employees are considered by the U.S. Small Business Administration to be small businesses. According to the Department's permitting records, there are currently 73 operators of unconventional well sites in Pennsylvania, and that number is not expected to change significantly in the near term.

The Marcellus Shale Coalition, an industry association that represents the majority of exploration, production, midstream, and supply chain partners of unconventional natural gas drilling in Pennsylvania, has estimated that less than half of the operators affected may be classified as a small business.

(b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

Permittees will have to complete an Emergency Response Plan, although the additional effort required is lessened due to overlapping requirements of the PPC Plan, already required in 25 Pa.

Code § 78.55. Costs should also be minimal because many in the industry already prepare these types of plans.

(c) A statement of probable effect on impacted small businesses.

It is the Department's assumption that the impacts on small businesses are the cost and time involved with compliance of this rulemaking. To mitigate these impacts, DEP has taken into account the effect on small businesses, and therefore has not specified the type of material signs should be made with. The Emergency Response Plan may be incorporated into the PPC Plan, already required in 25 Pa. Code § 78.55. Further, while a company is required to evaluate the plan each year, it may submit a statement that the plan has been reviewed and any updates were not necessary. Finally a transition period has also been incorporated into the regulation, which will allow companies 30 days to apply for an address with the county, 90 days to develop, implement, and submit their Emergency Response Plans, and 180 days to post the signage at their well site entrances. Because of these considerations, DEP does not feel this regulation will have an adverse effect on small businesses.

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The main expense of this regulation is the signage requirement. Because DEP did not specify the type of material a sign has to be made of, if an operator decides that aluminum signs are too costly, there are other less expensive options available such as fiber board, which is a plastic-like material for significantly less cost. This regulation is also written to allow operators to incorporate their Emergency Response Plans into the PPC Plan, which is already required in 25 Pa. Code § 78.55. This will reduce the amount of redundancy and cost for the emergency response planning requirements. Instead of submitting a new plan each year, the operators may submit a statement that their Emergency Response Plan has been reviewed and no changes were necessary. The regulation is also written with a transition period of 30 days for operators to apply for an address with the county, 90 days for operators to develop and implement an Emergency Response Plan, and 180 days for an operator to post signage at all entrances to well sites.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

It is the goal of the department to work within current requirements and industry Best Management Practices. Both DEP and PEMA worked with industry representatives to draft the concepts and language of this regulation and also worked with local emergency response organizations to identify their needs and current practices.

DEP has taken into account the effect on small businesses, and therefore has not specified the type of material signs should be made with. The Emergency Response Plan may be incorporated into the PPC Plan, already required in 25 Pa. Code § 78.55. Further, while a company is required to evaluate the plan each year, it may submit a statement that the plan has been reviewed and any updates were not necessary. Finally a transition period has also been incorporated into the regulation, which will allow companies 30 days to apply for an address with the county, 90 days to develop, implement, and submit their Emergency Response Plans, and 180 days to post the signage at their well site entrances.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

DEP and PEMA have responded to the clear direction of the legislation. The least burdensome acceptable alternatives have been selected for this regulation based on the descriptions of the provisions below.

It was originally discussed to require signs at every well site, in addition to the entrance. After further discussion with local emergency responders and industry, it was determined that the sign at the well site was unnecessary.

Operators are required to submit an update annually for the Emergency Response Plan. Under Section (5)(H)(iv) an operator will be able to submit a statement indicating that the plan was reviewed and no updates to the plan were necessary.

Under Section (5)(H)(ii) the Emergency Response Plan may be one base plan common to all of the operator's well sites and a site-specific plan for each well site. This will reduce the amount of redundancy among an operator's Emergency Response Plans.

Section 6 allows for a transition period for unconventional operators to comply. All operators that must comply with this regulation, will have 30 days to register for an address with the county. They will also have 90 days to develop and implement and submit their Emergency Response Plans. Unconventional operators will also have 180 days to post signage at the entrances of their well sites.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

For NAICS code 213111 crude petroleum and natural gas extraction, businesses with less than 500 employees are considered by the U.S. Small Business Administration to be small businesses.

- a) The establishment of less stringent compliance or reporting requirements for small businesses;

The risks of emergencies at unconventional oil and gas well sites are the same, regardless of how many workers a company employs. For all unconventional operators, PEMA and DEP determined that one base emergency response plan with site-specific components will avoid redundancy for all operators and emergency response organizations. This plan will be incorporated into the Preparedness, Prevention, and Contingency (PPC) Plan, which is an existing requirement under 25 Pa Code § 78.55.

- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

The deadlines for posting signage at access roads and completing emergency response plans are the same because the emergency risks and hazards to human and environmental health and safety are the same. This proposed regulation includes a transition period, which gives all

unconventional operators 30 days to request a street address for the well site from the county or municipality; 180 days to comply with the signage requirements; and 90 days to comply with the Emergency Response Planning requirements.

- c) The consolidation or simplification of compliance or reporting requirements for small businesses;

DEP simplified the compliance requirements for emergency response planning for all oil and gas operators by consolidating the Emergency Response Plans as part of the already required into the Preparedness, Prevention, and Contingency (PPC) Plan, which is an existing requirement under 25 Pa Code § 78.55. DEP also simplified the annual update requirement, allowing operators to submit a statement indicating that the plan was reviewed and no updates to the plan were necessary, in the event that no updates are made to the plan.

- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and

N/A

- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

Small businesses are not exempted from any part of the requirements in this regulation because the emergency risks and hazards to human and environmental health and safety are the same as large businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data is not the basis for this regulation.

(29) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments:           N/A
- B. The date or dates on which public meetings or hearings will be held:           N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation:           N/A

D. The expected effective date of the final-form regulation:

Dec 2012

E. The date by which compliance with the final-form regulation will be required:

First Quarter 2013

F. The date by which required permits, licenses or other approvals must be obtained:

N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended. DEP will have continued interaction with the Oil and Gas Technical Advisory Board and industry roundtables. As issues arise, DEP will have continuous evaluation.

**GOVERNOR'S OFFICE**  
**Certification of Need for Emergency Regulation**

*Whereas*, the Commonwealth Department of Environmental Protection engages in the permitting, regulation and inspection of all unconventional well sites within this Commonwealth; and

*Whereas*, the Commonwealth Department of Environmental Protection, the Pennsylvania Emergency Management Agency and local political subdivisions engage in emergency response activities at unconventional well sites; and

*Whereas*, timely emergency response is fundamental to the safety of the public, unconventional well site employees, and emergency responders as well as to the protection of the environmental resources throughout Pennsylvania; and

*Whereas*, local first responders and emergency management officials have cited concerns that it may be difficult to find unconventional well sites should an emergency occur particularly in the vast, undeveloped regions of the Commonwealth and that unconventional well site activities may pose unforeseen risks and hazards to response efforts; and

*Whereas*, many unconventional well sites lack adequate addressing and signage, which has the potential to delay emergency response, threatening the public, unconventional well site employees, and emergency responders in the event of an emergency; and

*Whereas*, no existing regulations of the Department of Environmental Protection or the Pennsylvania Emergency Management Agency require that unconventional well operators report their latitude and longitude or street address to the Department of Environmental Protection, the Pennsylvania Emergency Management Agency or local county Emergency Management Agencies; and

*Whereas*, the Act of February 2, 2012, P.L. 67, No. 9 requires the Department of Environmental Protection and the Pennsylvania Emergency Management Agency to adopt emergency regulations related to the emergency response at all unconventional well sites across this Commonwealth; and

*Whereas*, without immediate amendment of the regulations, emergency response activities may be severely hampered to the detriment of the safety of the public, unconventional well site workers, and emergency responders, and to the protection of the environmental resources of the Commonwealth; and

*Now Therefore*, I do hereby certify that the regulatory amendments to 25 Pa. Code, Chapter 78, following hereto as ANNEX A are required to meet the emergency conditions enumerated in the recitals above and to safeguard the public health, safety and welfare as described therein.

*Further*, I hereby authorize the Secretary of the Department of Environmental Protection to publish these amendments in the *Pennsylvania Bulletin* as an Emergency Final-Omitted Rulemaking consistent with the provisions of Section 6(d) of the Regulatory Review Act, as amended, 71 P. S. § 745.6(d).

*Given* under my hand and the Seal of the Governor, at the City of Harrisburg, on this <blank> day of December in the year of our Lord two thousand and twelve, and of the Commonwealth the two hundred and thirty sixth.

TOM CORBETT  
Governor

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**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU**

**(Pursuant to Commonwealth Documents Law)**

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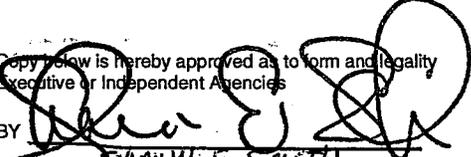
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By: \_\_\_\_\_  
(Deputy Attorney General)

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
ENVIRONMENTAL QUALITY BOARD

BY   
NOV 26 2012

(AGENCY)

DATE OF APPROVAL

DATE OF APPROVAL

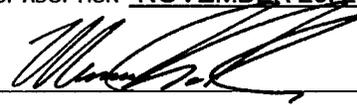
DOCUMENT/FISCAL NOTE NO. 7-479

(Deputy General Counsel)  
(Chief Counsel - Independent Agency)  
(Strike inapplicable title)

DATE OF ADOPTION NOVEMBER 20, 2012

Check if applicable. No Attorney General Approval  
or objection within 30 days after submission.

Check if applicable  
Copy not approved. Objections attached.

BY 

TITLE **MICHAEL KRANCER  
CHAIRMAN**

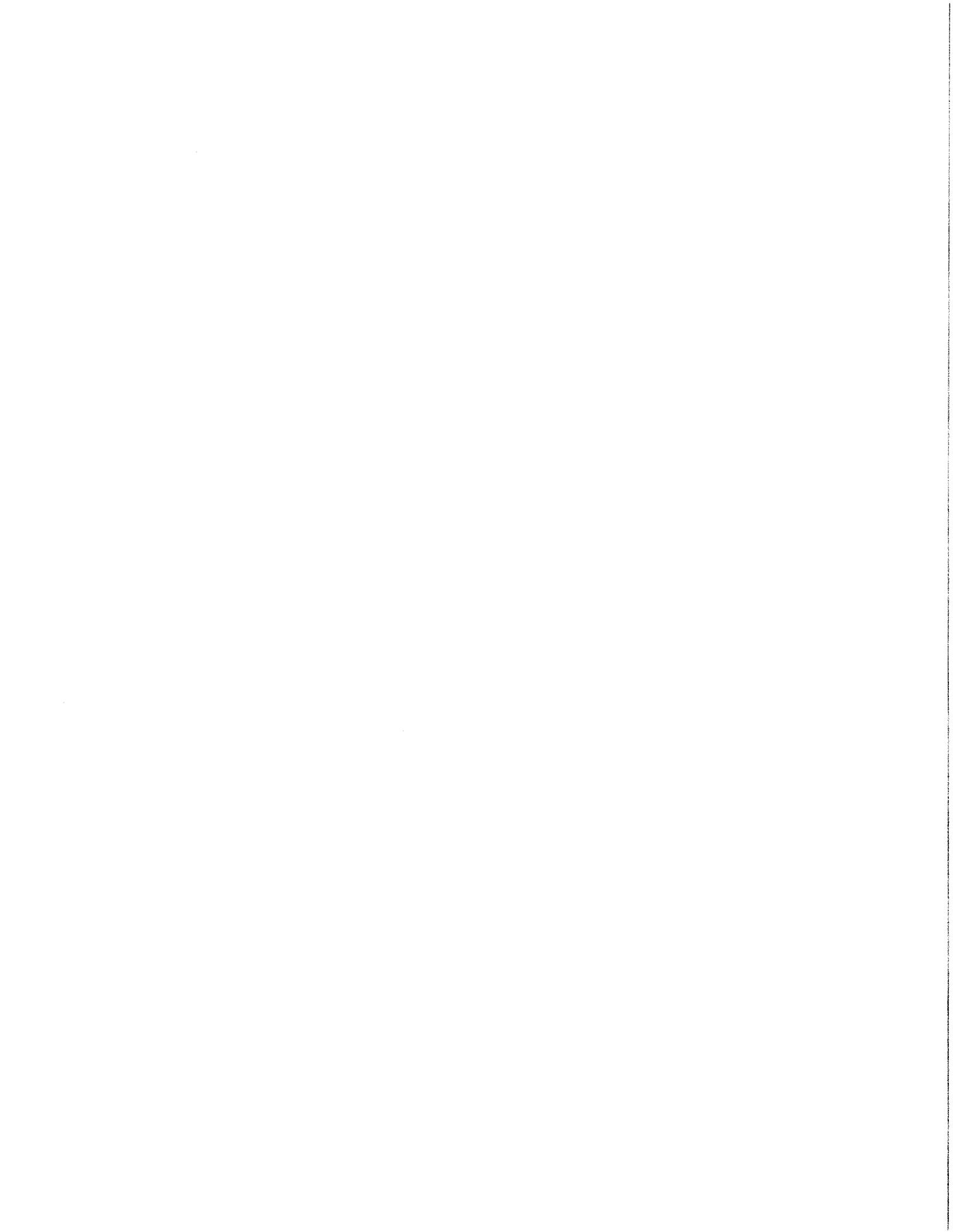
EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

**NOTICE OF EMERGENCY CERTIFICATION FINAL-OMITTED RULEMAKING**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD**

**Emergency Response Planning at Unconventional Well Sites**

**25 Pa. Code, Chapter 78, Subchapter I**



**Emergency Final-Omitted Rulemaking  
Department of Environmental Protection  
Environmental Quality Board  
25 Pa.Code Chapter 78  
(Oil and Gas Wells)**

**Order**

The Environmental Quality Board (Board) by this order amends 25 Pa.Code Chapter 78 (relating to Oil and Gas Wells) by revising Section 78.1 (relating to definitions), and revising Section 78.55 (relating to control and disposal plan), as set forth in Annex A.

Notice of proposed rulemaking is omitted as provided under section 204(3) of the Commonwealth Documents Law, the act of July 31, 1968, P.L. 769, No. 240 (45 P.S. § 1204(3)). Section 204(3) provides that an agency may omit notice of proposed rulemaking if the agency finds for good cause that the notice is contrary to the public interest. The notice of proposed rulemaking procedure for this regulation is contrary to the public interest for the reasons set forth below.

In addition, this is an emergency-certified regulation as provided under section 745.6(d) of the Regulatory Review Act, the act of June 30, 1989, P.L. 73, No. 89 (71 P.S. § 745.6(d)). Section 745.6(d) provides for issuance of emergency regulations based on, inter alia, a certification by the Governor that a final-omitted regulation is required to protect the public health, safety and welfare. In this case, the Governor issued a Certification of Need for Emergency Regulation on \_\_\_\_\_ that this final-omitted regulation is required to protect the public health, safety and welfare. In addition, that Certification is consistent with the statute authorizing the regulation, as set forth below.

This order was adopted by the Board at its meeting of November 20, 2012.

**A. Effective Date**

The amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

**B. Contact Persons**

For further information contact Kurt Klapkowski, Director, Bureau of Oil and Gas Planning and Program Management, Rachel Carson State Office Building, 15<sup>th</sup> floor, 400 Market Street, P.O. Box 8765, Harrisburg, PA 17105-8765, 717-772-2199; or Douglas Brennan, Director, Bureau of Regulatory Counsel, Rachel Carson State Office Building, 9<sup>th</sup> floor, 400 Market Street, P.O. Box 8461, Harrisburg, PA 17105-8461, 717-787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

This final-form rulemaking is available on the Department of Environmental Protection's (Department) website at [www.dep.state.pa.us](http://www.dep.state.pa.us).

### **C. Statutory Authority**

This final-form rulemaking is being made under the authority of the Act of February 2, 2012, No. 9, P.L. 67 (Act 9) (35 Pa.C.S. § 7321), which requires the Department and the Pennsylvania Emergency Management Agency (PEMA) to adopt emergency regulations directing the operators of all unconventional wells within this Commonwealth to take certain actions for emergency response. The rulemaking is also adopted under section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the Board to adopt regulations necessary for the proper performance of the work of the Department.

### **D. Background of the Regulation**

Governor Tom Corbett has called the Marcellus Shale natural gas play an “economic cornerstone” of the Commonwealth’s recovery from the recession, which has impacted the nation over the past four years. The development of vast natural gas resources trapped beneath more than half of Pennsylvania has created tens of thousands of new jobs, generated billions of dollars in tax and lease revenues for the Commonwealth and its citizens, infused billions of additional dollars in bonus lease and royalty payments to landowners, and significantly expanded access to clean, affordable energy sources for residential, commercial and industrial customers.

Along with the economic and energy independence and security potential of the Marcellus Shale natural gas reserve comes a heightened awareness of and concern for the activity’s impact on local communities within the shale development regions. While the Commonwealth has an extensive history of oil and natural gas development, particularly in its western region, natural gas development is relatively new to regions such as the Northern Tier and northeastern Pennsylvania. Additionally, the size, scale and accelerated pace of development of the Marcellus Shale natural gas reserve is a new phenomenon for Pennsylvania.

In 2011, Governor Corbett issued Executive Order 2011-01 to establish the Marcellus Shale Advisory Commission. The Governor charged it to identify, prioritize and craft recommendations regarding the safe, efficient and environmentally responsible extraction and use of unconventional natural gas reserves in Pennsylvania.

As outlined in Executive Order 2011-01, the Commission undertook a broad review of a multitude of issues related to Marcellus Shale natural gas development. As part of this, the Commission formed a Local Impact & Emergency Response Work Group. This workgroup closely examined emergency response issues, which included meeting with various experts and local government officials.

In the final Commission report to the Governor, the Commission noted that

... municipalities have a legal responsibility for planning for and responding to all types of emergencies. Drilling activity leads to the

potential for many types of incidents for which response may be necessary including: fires, well blowouts, chemical and fuel spills, and traffic accidents attributed to an overall increase in vehicular traffic. Emergencies at drilling locations have occurred and until emergency specialists retained by drilling companies arrive on site, volunteer fire companies and other local first responders must secure a site and take appropriate action... Responding to natural gas incidents requires additional emergency management planning at the local, county, and regional levels and appropriate equipment and training, particularly with respect to natural gas well operations.

The Commission made two recommendations that relate to this regulation:

9.3.1: Oil and gas well pads and related facilities should be assigned a 9-1-1 address for emergency response purposes, and oil and gas operators should be required to provide GPS coordinates for access roads and well pad sites, and post this information, along with appropriate emergency response contact information, in a conspicuous manner at the well pad site.

9.3.2: In coordination with PEMA and [the Department], emergency plans for responding to incidents on well development sites should be standardized across the Commonwealth to ensure an acceptable level of expectation for safety and response coordination. The emergency plan should be distributed to the county emergency management coordinator.

On February 2, 2012, Governor Corbett signed into law Act 9, which adopted these recommendations from the Commission. The law provides that the Department and PEMA “shall adopt emergency regulations directing the operators of all unconventional wells within this Commonwealth” to register street and GPS addresses, to post signs, and to develop and implement emergency response plans. The Department and PEMA have worked closely in developing this regulation.

The Department presented these final-omit regulations to its Oil and Gas Technical Advisory Board (TAB) at meetings on August 15 and September 17, 2012, and changes were made to these final-omit regulations to reflect concerns raised by TAB.

#### **E. Summary of Final Rulemaking**

This regulation adds two definitions to Section 78.1, and adds five paragraphs to Section 78.55, in a new subsection 78.55(e). The Department is currently developing other changes to Chapter 78 to address a variety of topics, including ones needed to implement the 2012 Oil and Gas Act (58 Pa. C.S.A. §§ 3201-3274). As part of that effort, the Department expects that this new subsection will be integrated into a more comprehensive Section 78.55 in the future.

The new definitions in Section 78.1 are for “unconventional formation” and “unconventional well.” Those two definitions are taken verbatim from section 3203 of the 2012 Oil and Gas Act (58 Pa.C.S. § 3203).

New Section 78.55(b)(2) contains definitions of terms used in Act 9, and others that are needed to clarify the requirements of the regulation. These definitions only apply to the new provisions in Section 78.55(b) contained in this regulation. The definitions include several terms to ensure clarity of the requirements for signs (access road, entrance, private road, public road, reflective).

New Section 78.55(b)(3) requires registration of street addresses, and GPS coordinate addresses, needed to assist emergency responders in locating well sites. Section 78.55(b)(3) provides details on how those requirements apply in different scenarios.

New Section 78.55(b)(4) contains signage requirements for the same purpose. The standards are largely borrowed from PennDOT regulations. An example sign is provided in Figure 1.

New Section 78.55(b)(5) contains requirements for emergency response planning. Emergency response planning is a central part of ensuring that the impacts of emergencies are minimized. The plans must utilize the concepts of the National Incident Management System (NIMS) to the maximum extent practicable, and the key elements are described in Section 78.55(b)(5). The plan must contain a description of the procedure used to provide current information to emergency responders in the event of an emergency, including current Material Safety Data Sheets for materials located at the well site.

Emergency response plans may consist of a base plan common to all of an operator’s well sites, along with site-specific plans for each well site with information relevant to that site. The initial emergency response plan must be submitted to PEMA, the Department, the county emergency management agency and the “Public Safety Answering Point” prior to drilling operations. Annual updates must be submitted after that, although if there are no changes needed to the plan, the operator must only submit a statement to that effect.

Act 9 explicitly applies to both new and existing unconventional wells located within the Commonwealth. In recognition of that fact, Section 78.55(b)(6) contains a transition to allow for existing operations, and others, to meet the new requirements within a reasonable time period after publication of the regulation. The transition allows for delayed effective dates for well sites containing a well that is being drilled or has been drilled, well sites for which a well permit has been issued but no wells have commenced drilling, and well sites for which an administratively complete well permit application is pending.

## **G. Benefits and Costs**

### **Benefits**

The public will benefit from this regulation because it enhances emergency response at unconventional well sites. That has a direct benefit to public health, safety and welfare. This is particularly beneficial to first responders and employees at the well sites, who are the people

most vulnerable to injury when there is an emergency.

Local governments will benefit because this regulation will enhance their ability to manage emergency response. They will have emergency response plans that meet a statewide standard in hand when an emergency occurs, and there will be signs that meet the same standard to direct their response personnel to the well site as quickly as possible.

The regulated community will also benefit because there will be clear and uniform statewide requirements for emergency response planning, and the use of signs and addresses to direct emergency responders to the well site.

### **Costs**

This rulemaking will not impose any additional costs on the Department.

Industry will incur costs in preparing the emergency response plans, and in posting signs. However, responsible operators already do both, so the expense should not be significant. The Department estimates that for existing unconventional well sites the cost to industry to provide the required signage may run between \$250,000 and \$1.1 million, depending on the material used to manufacture the sign (\$150 per sign for fiberboard and \$600 per sign for aluminum).

### **Compliance Assistance Plan**

A compliance assistance plan will be implemented, including regional training sessions by the Department and PEMA on the new requirements. The training will be targeted to Department and PEMA staff, local governments, first responders and unconventional well operators.

### **Paperwork requirements**

This regulation will require operators to prepare written emergency response plans. They will also need to submit annual updates, although for the vast majority of well sites this will simply involve notification that the plans are still current.

## **H. Sunset Review**

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

## **I. Regulatory Review**

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on November 29, 2012, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. On

the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

#### **J. Findings of the Board**

The Board finds that:

(1) Use of the omission of notice of proposed rulemaking procedure is appropriate because the notice of proposed rulemaking procedure specified in sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§1201 and 1202) is, under the circumstances, contrary to the public interest.

(2) Use of the notice of proposed rulemaking procedures is contrary to the public interest because the subject of the regulation, emergency response, has a direct and immediate impact on human health and safety at unconventional well sites.

(3) Use of the emergency-certified rulemaking procedure provided in section 645.6(d) of the Regulatory Review Act, the act of June 30, 1989, P.L. 73, No. 89, 71 P.S. § 745.6(d) is appropriate because it is required to protect the public health, safety and welfare.

(4) Use of the emergency-certified rulemaking procedure required to protect the public health, safety and welfare based on the Governor's Certification of Need for Emergency Regulation dated \_\_\_ and attached hereto. This is also indicated by the underlying statute, in which the General Assembly directed the Department and PEMA to issue an emergency regulation containing the explicit provisions in the regulation.

(3) The regulation is necessary and appropriate for administration of the authorizing acts identified in section C of this preamble and in the public interest.

#### **K. Order of the Board**

The Environmental Quality Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department of Environmental Protection, *25 Pa. Code* Chapter 78 are amended by revising sections 78.1 and 78.55, as shown in Annex A.

(b) The Chairperson shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval and review as to legality and form as required by law.

(c) The Chairperson shall submit this Order and Annex A to the Independent Regulatory Review Commission and the Senate and House Environmental Resources and Energy committees as required by the Regulatory Review Act.

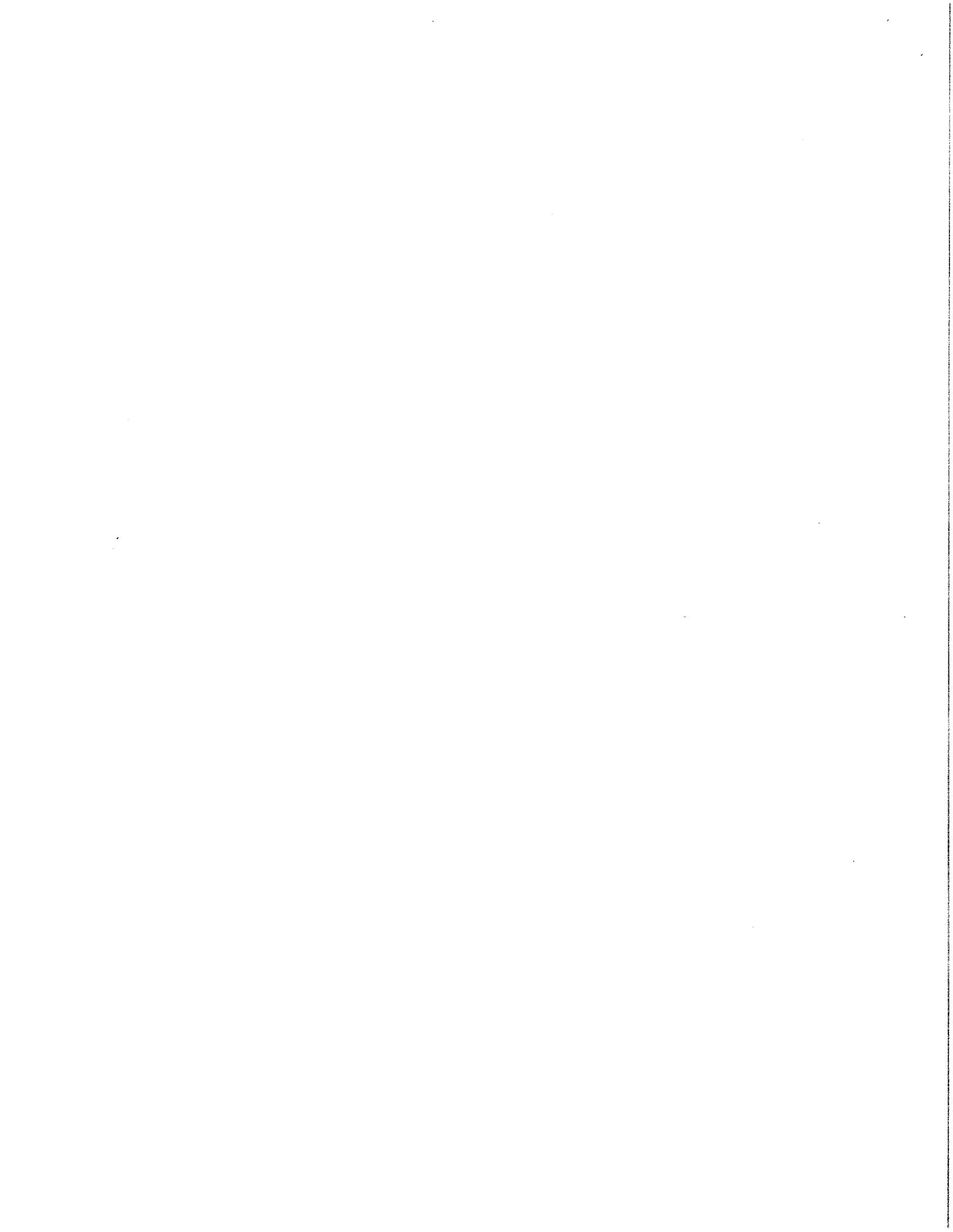
(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately.

BY:

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Michael L. Krancer  
Chairperson  
Environmental Quality Board



ANNEX A

TITLE 25. ENVIRONMENTAL PROTECTION  
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Subpart C. PROTECTION OF NATURAL RESOURCES  
ARTICLE I. LAND RESOURCES  
CHAPTER 78. OIL AND GAS WELLS  
Subchapter A. GENERAL PROVISIONS

78.1. Definitions.

\* \* \* \* \*

(b) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise or as otherwise provided in this chapter:

\* \* \* \* \*

*Unconventional formation* - A geological shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where natural gas generally cannot be produced at economic flow rates or in economic volumes except by vertical or horizontal well bores stimulated by hydraulic fracture treatments or by using multilateral well bores or other techniques to expose more of the formation to the well bore.

~~*Unconventional formations* - Formations that typically produce gas through the use of enhanced drilling or completion technologies such as the Rhinestreet, Burket, Marcellus, Mandata and Utica Shale formations, or other formations identified by the Department.~~

*Unconventional well* - A bore hole drilled or being drilled for the purpose of or to be used for the production of natural gas from an unconventional formation.

\* \* \* \* \*

Subchapter C. ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

\* \* \* \* \*

§ 78.55. Control and disposal ~~[plan]~~ planning; emergency response for unconventional well sites.

\* \* \* \* \*

(*Editor's Note:* The following subsection is new and has been printed in regular print to enhance readability.)

(e) Emergency response for unconventional well sites.

(1) Applicability. This subsection applies to unconventional wells.

(2) Definitions. For the purposes of this subsection, the following definitions apply:

*Access Road* - A road connecting a well site to the nearest public road, private named road, administrative road with a name and address range, or private unnamed road with an address range.

*Address* - A location, by reference to a road or a landmark, made by a county or municipality responsible for assigning addresses within its jurisdiction.

*Administrative road* - A road owned and maintained by the Commonwealth of Pennsylvania, that is open to the public at the discretion of the Commonwealth, and may or may not have a name and address range.

*Emergency Responder* - Police, firefighters, emergency medical technicians, paramedics, emergency management personnel, public health personnel, state certified hazardous materials response teams, Department emergency personnel, and other personnel authorized in the course of their occupations or duties, or as an authorized volunteer, to respond to an emergency.

*Entrance* - The point where the access road to a well site connects to the nearest public road, private named road, administrative road with a name and address range, or a private unnamed road with an address range.

*GPS Coordinates* - The coordinates in latitude and longitude as expressed in Degrees Decimal to at least six (6) digits after the decimal point, based upon the World Geodetic System 1984 Datum (WGS 84) or any other datum approved by the Department.

*PEMA* - the Pennsylvania Emergency Management Agency.

*Private Named Road* - A private road, with a name and address range.

*Private Road* - A road that is not a public road.

*Private Unnamed Road* - A private road that is not a private named road.

*Public Road* - A road owned and maintained by the Commonwealth of Pennsylvania, a county within the Commonwealth, a municipality within the Commonwealth, or any combination thereof, and that is open to the public.

*Public Safety Answering Point* - An entity operating in cooperation with local municipalities and counties to receive 9-1-1 calls for a defined geographic area, and processes those calls according to a specific operational policy.

*Well site name* - The name used to designate the well site by the operator on the well permit application submitted to the Department.

### (3) Registration of Addresses.

- (i) Prior to construction of an access road to a well site, the operator of an unconventional well shall request a street address for the well site from the county or municipality responsible for assigning street addresses.
- (ii) The operator shall determine the GPS coordinates for both the well site and the entrance to the well site. The GPS coordinates shall have a horizontal accuracy of plus or minus 6.67 feet or better. If there is more than one well on a well site, one set of GPS coordinates shall be used for the well site.

- (iii) The operator shall register the following with PEMA, the Department, the Public Safety Answering Point and the county emergency management organization within the county where the well site is located.
  - (A) Well site name.
  - (B) Well site address.
  - (C) GPS coordinates for the entrance and the well site.
- (iv) When there is a change of well site address, the operator shall register the new address as provided in subparagraph (iii).
- (v) When there is a change of the entrance due to a change in the well site address or otherwise, the operator shall register the GPS coordinates for the entrance as provided in subparagraph (iii).
- (vi) The following shall be retained at the well site for reference when contacting emergency responders:
  - (A) Well site name.
  - (B) Well site address.
  - (C) GPS coordinates for the entrance and the well site.

(4) Signage.

- (i) Prior to construction of the access road, the operator of an unconventional well shall display a reflective sign at the entrance.
- (ii) The sign shall meet the following:
  - (A) The sign shall be fabricated with approved retroreflective sheeting material meeting ASTM 4956 Type III.
  - (B) The sign shall have a white background with a two (2) inch red border and black numbers and letters. Signs for entrances on administrative roads may use other colors, provided that the signs use contrasting colors between the background, and the border, numbers and letters.
  - (C) The sign shall be of sufficient size to accommodate the required information described in this section, but at a minimum shall be thirty-six (36) inches in height and forty-eight (48) inches in width.
  - (D) The sign shall follow the format of Figure 1, and shall contain the following:
    - (I) The address number for the well site, once it is assigned, displayed horizontally on the first line of the sign in text no smaller than four (4) inches in height.
    - (II) The full address of the entrance, once it is assigned, including the county and municipality in which the entrance is located.

- (III) The well operator's company name.
  - (IV) The twenty-four hour contact telephone information for the operator of the well site.
  - (V) The GPS coordinates for the entrance.
  - (VI) The well site name.
  - (VII) The wording "In Case of Emergency Call 9-1-1".
- (iii) The sign shall be mounted independently from other signage.
  - (iv) The bottom of the sign shall be positioned a minimum of three (3) feet above ground level.
  - (v) The sign shall contain no other markings.
  - (vi) Signs, as viewed from the applicable road, shall not be obstructed from view by vegetation, equipment, vehicles or any other obstruction.
  - (vii) During drilling operations, the American Petroleum Institute (API) permit numbers of the wells at the site may be posted on a non-reflective sign below the principal sign. The API sign can be removed after the well is completed, provided that it is not otherwise required to be posted.

**Sample Site Entrance Signage:**

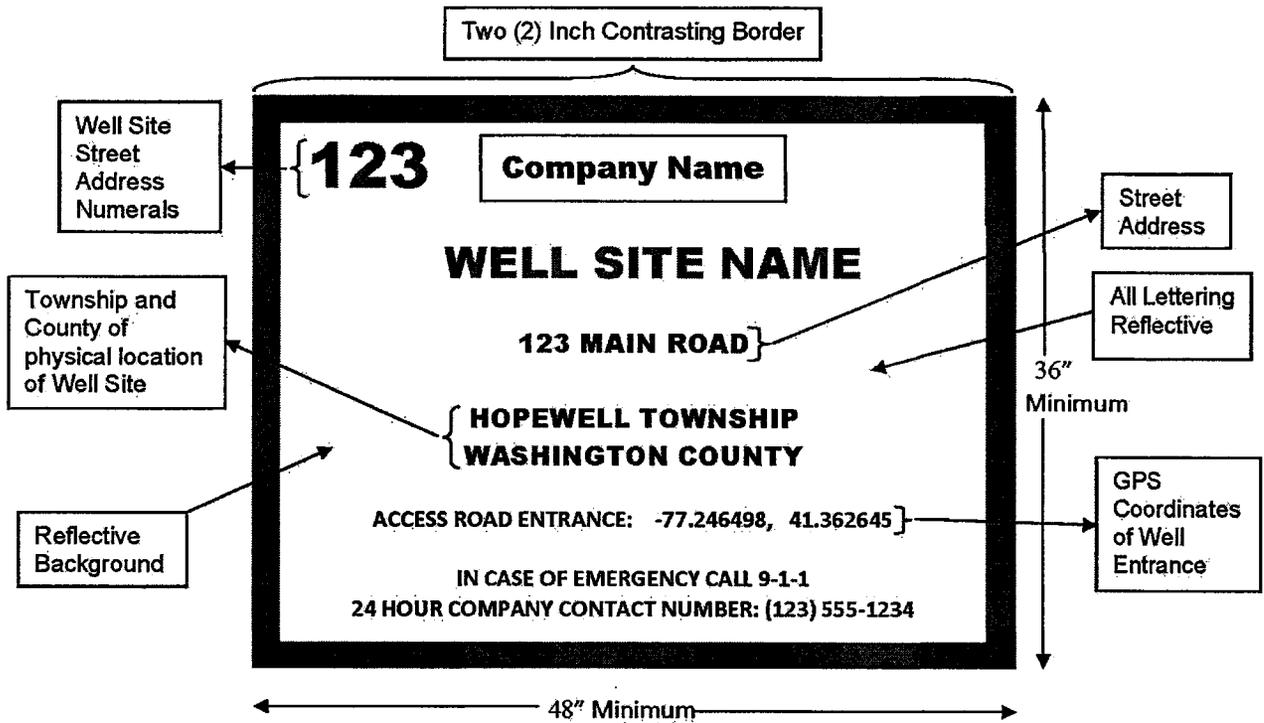


Figure 1  
(Not to scale)

(5) Emergency Response Planning.

- (i) The operator of an unconventional well shall develop and implement an emergency response plan that provides for equipment, procedures, training and documentation to properly respond to emergencies that threaten human health and safety for each well site. The plan shall incorporate National Incident Management System (NIMS) planning standards, including the use of the Incident Command System, Incident Action Planning, and Common Communications Plans, and shall include the following:
  - (A) Emergency contact information, including phone numbers, for the well operator's local representative for the well site, and the well operator's 24-hour emergency phone number.
  - (B) The emergency notification procedures that the operator will utilize to contact emergency responders during an emergency.
  - (C) A description of the well site personnel's response to the following well site emergencies:
    - (I) Fire.
    - (II) Medical emergency.
    - (III) Explosion or similar event.
    - (IV) Spill.
    - (V) Security breach or other security event.
    - (VI) Any other incident that necessitates the presence of emergency responders.
  - (D) A description of the procedure to be used to provide the most current information to emergency responders in the event of an emergency, including the following:
    - (I) The current MSDSs required by law to be present at the well site.
    - (II) The location of the MSDSs at the well site.
    - (III) The name of the position in the operator's organization responsible for providing the information in subclauses (I) and (II).
  - (E) A list containing the location of any fire suppression and spill control equipment maintained by the well operator at the well site.
  - (F) A description of any emergency equipment available to the operator that is located off of the well site.
  - (G) A summary of the risks and hazards to the public within ½ mile of the well site, and the associated planning assumptions.
  - (H) An outline of the emergency response training plan that the operator has established.

- (ii) The emergency response plan described in subparagraph (i) may consist of two parts, as follows:
  - (A) A base plan common to all of the operator's well sites, containing some of the elements described in subparagraph (i), and
  - (B) A site-specific plan containing the remaining elements described in subparagraph (i).
- (iii) The operator shall submit a copy of the current emergency response plan for that well site, unless the permit provides otherwise. For plans using the approach in subparagraph (ii), the operator may submit one base plan, provided that the site-specific plans are submitted for each well site.
- (iv) The operator shall review the plan and submit an update annually on or before March 1 each year. In the event that no updates are made to the plan for that review period, the operator shall submit a statement indicating the review was completed and no updates to the plan were necessary.
- (v) The plan and subsequent updates shall be submitted to the following:
  - (A) PEMA.
  - (B) The Department.
  - (C) The county emergency management agency.
  - (D) The Public Safety Answering Point with jurisdiction over the well site.
- (vi) A copy of the plan shall be available at the well site during all phases of operation.
- (vii) The emergency response plan shall address response actions for the following stages of operation at the well site:
  - (A) Preparation of the access road and well site.
  - (B) Drilling of the well.
  - (C) Hydraulic fracturing and stimulation of the well.
  - (D) Production.
  - (E) Well site restoration.
  - (F) Plugging of the well.
- (viii) The requirements in subparagraphs (i) – (vii) may be met by implementing guidance issued by the Department in coordination with PEMA.

(6) Transition.

- (i) This regulation shall be effective immediately upon publication in the *Pennsylvania Bulletin*, except as provided in subparagraph (ii).
- (ii) For a well site containing a well that is being drilled or has been drilled as of the effective date of this regulation, or a well site for which a well permit has

been issued but no wells have commenced drilling as of the effective date of this regulation, or a well site for which an administratively complete application is pending as of the effective date of this regulation as provided in subparagraph (i), the following applies:

- (A) The requirements of paragraph (3) shall be effective on \_\_\_\_\_ [30 days after the effective date of the regulation].
- (B) The requirements of paragraph (4) shall be effective on \_\_\_\_\_ [180 days after the effective date of the regulation].
- (C) The requirements of paragraph (5) shall be effective on \_\_\_\_ [90 days after the effective date of the regulation].



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

POLICY OFFICE

November 29, 2012

David Sumner  
Executive Director  
Independent Regulatory Review Commission  
14th Floor  
333 Market Street  
Harrisburg, PA 17120

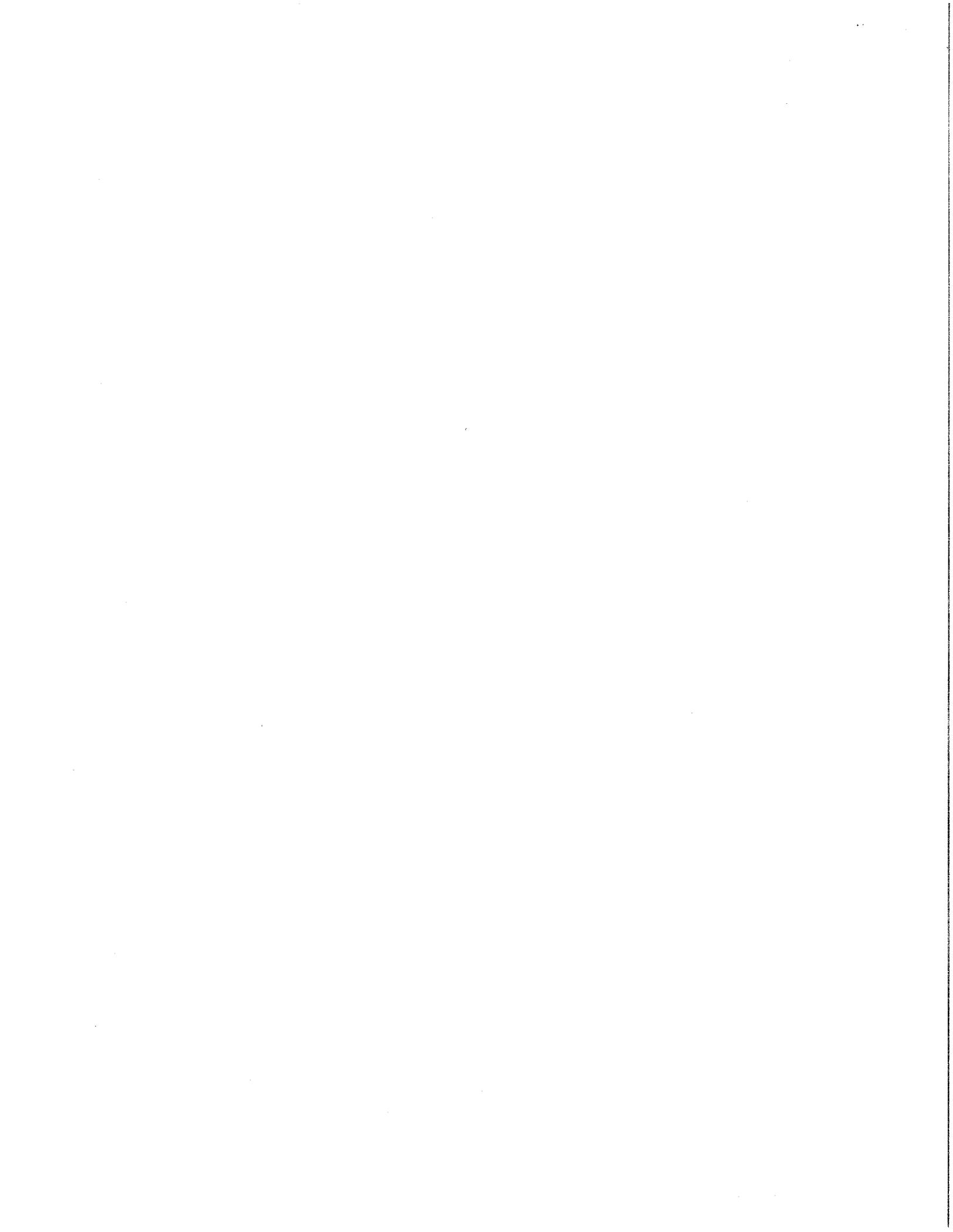
Re: Emergency Certification Final-Omitted Rulemaking – Emergency Response at Unconventional Well Sites (#7-479)

Dear Mr. Sumner:

Pursuant to Section 5.1(c) of the Regulatory Review Act, please find enclosed a copy of an emergency certification final-omitted rulemaking for review and comment by the Independent Regulatory Review Commission (IRRC). The Environmental Quality Board (Board) adopted the rulemaking at its November 20, 2012, meeting.

The emergency certified final-omitted rulemaking, developed in response to Act 9 of 2012, establishes emergency response requirements for unconventional well operations in Pennsylvania. On February 2, 2012, Governor Corbett signed into law Act 9, which requires the Department of Environmental Protection (DEP) and the Pennsylvania Emergency Management Agency (PEMA) to adopt emergency regulations directing the operators of all unconventional wells within Pennsylvania to register street and GPS addresses, to post signs, and to develop and implement emergency response plans. Many of Pennsylvania's unconventional well sites are located in very remote areas with limited access to infrastructure. Local first responders and emergency management officials have expressed concern that it may be difficult for them to find well sites should an emergency occur. Because timely emergency response is fundamental to public health and safety, including the protection of the Commonwealth's environmental resources, Act 9 provided that these regulations may be promulgated as an emergency rulemaking. This rulemaking is also being promulgated as a final-omitted rulemaking under the Commonwealth Documents Law which omits the notice of proposed rulemaking for public comment.

DEP and PEMA worked in close cooperation in the development of this rulemaking and solicited comments on the rulemaking from stakeholders including industry emergency response specialists, representatives of local government, DEP's Oil and Gas Technical Advisory Board, the Marcellus Shale Coalition, the American Petroleum Institute and the Pennsylvania Independent Oil and Gas Association. In recognition that a transition period will be necessary for existing operations to meet the new requirements, the rulemaking allows for delayed effective

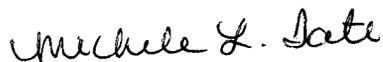


dates for well sites containing a well that is being drilled or has been drilled, a well site for which a well permit has been issued but no wells have commenced drilling, and well sites for which an administratively complete well permit application is pending.

DEP will provide assistance as necessary to facilitate IRRC's review of the enclosed emergency certified final-omitted rulemaking under Section 5.1(e) of the Regulatory Review Act. In acknowledgement that the House and Senate Environmental Resources and Energy Committees will not be able to complete their required 20-day review of the enclosed rulemaking because of the adjournment sine die of the legislative session, DEP, in accordance with requirements of Section 5.1(j.1) of the Regulatory Review Act, will resubmit the emergency certified final-omitted rulemaking to IRRC and the House and Senate Environmental Resources and Energy Committees when the Committees are designated in 2013. The Department acknowledges that IRRC shall not act on the enclosed regulations until the review time of the Committees has expired.

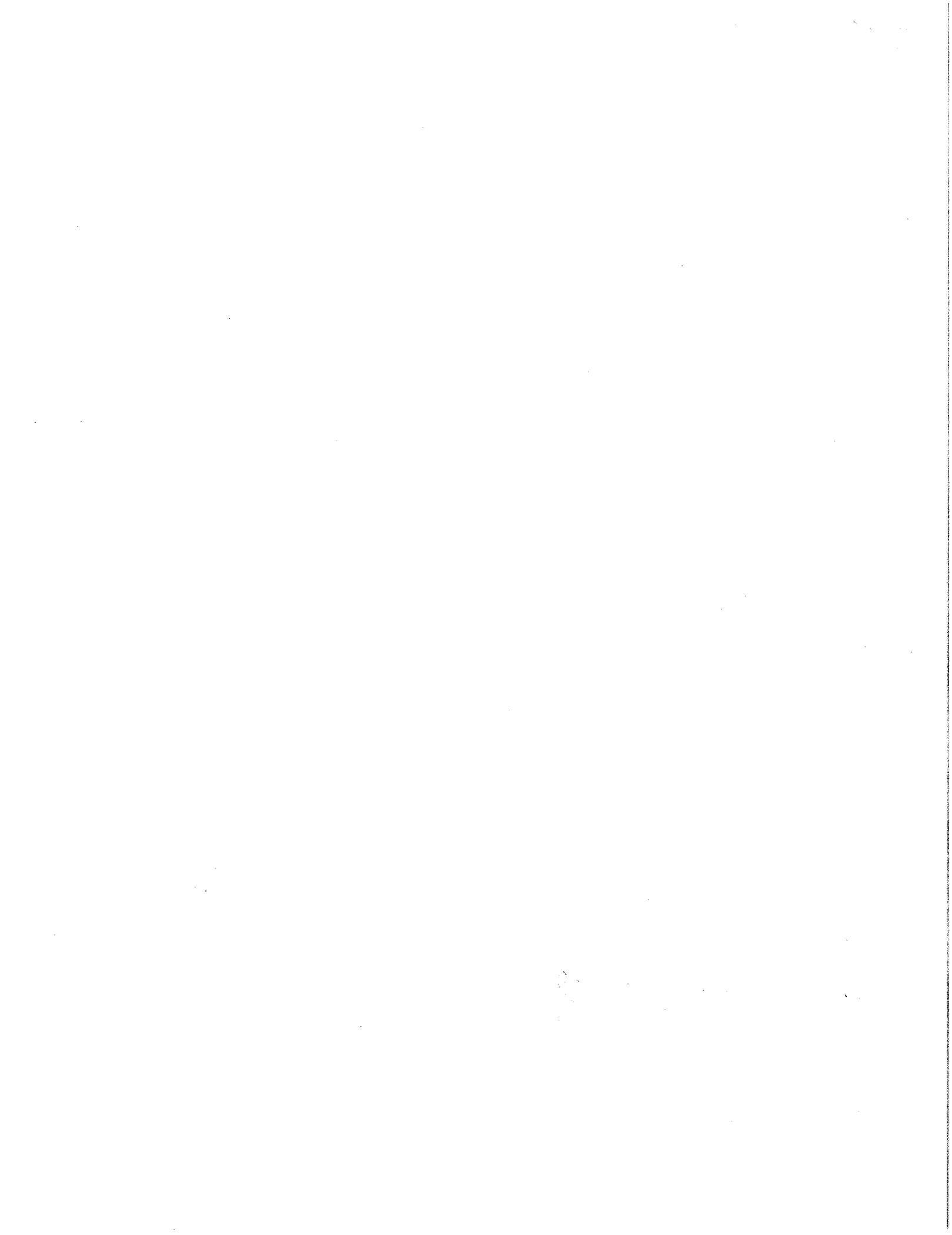
Please contact me at 717.783.8727 or by e-mail at [mtate@pa.gov](mailto:mtate@pa.gov) if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Michele L. Tate".

Michele L. Tate  
Regulatory Coordinator

Enclosures





**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO  
THE REGULATORY REVIEW ACT**

I.D. NUMBER: 7-479  
 SUBJECT: Emergency Response Planning at unconventional well sites  
 AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolerated Regulation
  - a.  With Revisions
  - b.  Without Revisions

2012 NOV 29 AM 11:10

RECEIVED  
IRRC

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
11-29-12	<i>Scott Hutchinson</i>	Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Rep. Scott Hutchinson
11-29-12	<i>D. Neuf</i>	Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
11-29-12	<i>Mary Jo White</i>	Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY senator mary jo white
11/29/12	<i>Yamiletta Rueda</i>	Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
11/29/12	<i>Mary Mummert</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
11/29/12	<i>Steph F. Hoffman</i>	ATTORNEY GENERAL (for Final Omitted only)
11/29/12	<i>Samata Howard</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

