



SECRETARY'S OFFICE

FEB 14 2017

Senate of Pennsylvania

DEPARTMENT OF
ENVIRONMENTAL PROTECTION

February 6, 2017

The Honorable Patrick McDonnell
Acting Secretary of Environmental Protection
16th Floor Rachel Carson State Office Building
Harrisburg, PA 17105

Dear Acting Secretary McDonnell:

Thank you for meeting with us today regarding the Department of Environmental Protection's (DEP) recently published draft general permit revision for gathering, midstream and transmission facilities (GP5) and new proposed permit for well sites and pigging operations (GP5a).

We are concerned that the proposed revisions to the existing GP5, and the creation of a new permit for well sites and pigging operations, adds new degrees of complexity to the permitting and site construction process that may significantly impair the competitiveness of the Commonwealth and strongly discourage the investment of private capital into Pennsylvania.

To further our understanding of these proposals and DEP's rationale and justification for them, we would appreciate your prompt response to the following questions:

- 1) Other than the unconventional oil and gas industry, what other industry sectors were evaluated for inclusion as part of DEP's methane emission reduction strategy?
- 2) What legal justification does DEP rely upon for imposing methane limitations on only the unconventional oil and gas industry?
- 3) What cost or economic impact analysis was conducted for each of the proposed permits?
- 4) What evidence does DEP have to substantiate that the existing GP 5, Category 38 Exemption process is not functioning properly?
- 5) Will current sites operating under the existing GP 5, Category 38 Exemption be grandfathered, or will they be required to apply for a new GP5 or GP5a? If they are not grandfathered, how does DEP justify essentially revoking authorization for an existing facility to operate?
- 6) DEP seeks to impose new standards and limitations on the emission of methane. It appears that DEP is regulating methane emissions without specific statutory or rulemaking authority. What specific authority is DEP relying upon to impose these standards?

- 7) How do the permit limitations imposed in the revised GP5 and proposed GP5a comport with the state's Air Pollution Control Act, and specifically Section 4.2(b) of the Act?
- 8) How was the methane limitation imposed in each of these permits arrived at?
- 9) What scientific studies or analysis did DEP utilize to quantify the unconventional oil and gas industry's contributions to total methane emissions, ambient air quality, or *public health and environmental impacts*?
- 10) What scientific studies or analysis did DEP utilize to establish the specific emission limitations contained within the permit criteria?
- 11) What evidence does DEP have to substantiate its inference that the unconventional natural gas industry has not taken prudent steps to minimize fugitive emissions of the very product which it seeks to sell?
- 12) Why do the permit limitations also include temporary sources? It appears that the permit process fails to contemplate the well construction, drilling and completion process – which is temporary in nature – compared to the production phase of a well.
- 13) What fees must accompany each permit application? What analysis was done to justify the amount of each fee? What authority does DEP have to impose a fee outside of the rulemaking process?
- 14) DEP has referenced climate change as the primary driver behind its methane reduction strategy. What tangible climate change benefits will the citizens of Pennsylvania realize due to the imposition of these new requirements? What is this analysis based on?
- 15) DEP has stated that it intends to review and issue administratively and technically complete GP 5 and GP5a permits in 30 days. However, DEP currently fails to review and issue most of its general permits within the prescribed timeframe. For example, many existing GP5 permits that are to be reviewed and issued within 30 days are taking in excess of 6 to 12 months, or more, to process, with significant deviations based upon DEP regional office. How can the regulated community rely upon a 30 day processing timeframe for these proposed permits?
- 16) In June 2016, the United States Environmental Protection Agency (U.S. EPA) finalized its New Source Performance Standards (OOOOa) to control emissions, including methane, from oil and gas sources. U.S. EPA's final rule was adopted after a comprehensive rulemaking process which included detailed cost-benefit analysis and a required demonstration of public health and environmental benefits. How do DEP's proposed permit conditions overlay with these new standards, which were adopted *after* DEP announced its intention to publish the revised GP5 and GP5a? Why is OOOOa not sufficient?
- 17) DEP seeks to impose 98% control of emissions for pigging operations. As you know, pigging operations are critical to maintain proper pipeline pressure, preventing corrosion, inspect and otherwise maintain the integrity of pipelines. What analysis has DEP done to determine whether such a standard is even practical or attainable?

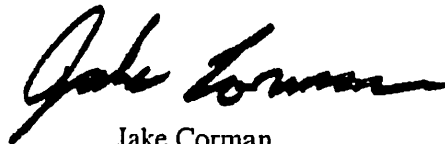
- 18) As proposed, the GP5a must be obtained prior to moving any earth to build a well pad. The time, level of detail and cost associated with preparing a permit application is on par with preparing some Title V major source air permits. Due to market conditions, it is not unusual for a year or two to pass between well pad construction and drilling a well and placing it into production. How, therefore, is it reasonable to require an applicant to estimate emissions from on-site sources so far in advance? How is an operator to estimate source emissions related to production when an operator cannot know how much natural gas a well will produce?
- 19) If an operator returns to an existing well pad at a future site to drill additional wells, must the site be re-permitted again?
- 20) What authority does DEP rely upon for conditioning receipt of an air quality permit on adherence to federal, state or local noise limitations? What is the correlation between noise levels and ambient air quality, and the rationale for imposing such standards on only the unconventional oil and gas industry?
- 21) What analysis has DEP performed to justify the frequency and stringency of many of the components of the permits, such as a) quarterly leak detection and repair surveys; b) monthly audio, visual and olfactory observations; c) mandatory reporting of any malfunction or anomaly, regardless of whether it resulted in any emission; d) quantification of any leak, regardless of duration, which may impede timely repairs and return to service; e) burdensome notification, recordkeeping and other reporting requirements typically mandated through the rulemaking process?

Again thank you for meeting with us today. We look forward to receiving a response from you in the near future. Should you have questions or concerns, please contact Adam Pankake apankake@pasen.gov of Senator Yaw's office.

Sincerely,



Joe Scarnati
President Pro Tempore



Jake Corman
Majority Leader



Gene Yaw
Chairman of the Senate Environmental
Resources and Energy Committee