

RESCISSION OF TECHNICAL GUIDANCE
by the Pennsylvania Department of Environmental Protection
regarding the Evaluation of Impacts of Oil & Gas Development
on Pennsylvania State Parks and State Forests.

INTRODUCTION TO ORIGINAL DOCUMENT (ATTACHED Pages 2 – 7)

DOCUMENT NUMBER: 550-2116-001

TITLE: Policy for the Evaluation of Impacts of Oil and Gas Development on State Parks and State Forests

EFFECTIVE DATE: October 25, 2010

AUTHORITY: The Oil and Gas Act (P.L. 1140, No. 223) (58 P.S. Section 601.101 *et seq.*) and 25 Pa. Code Chapter 78

POLICY: The Department of Environmental Protection (DEP) and the Department of Conservation and Natural Resources (DCNR) will follow the guidance in this document to implement Section 205(c) of the Oil and Gas Act in reviewing the impact of proposed oil and gas wells on State Park and State Forest lands.

PURPOSE: This guidance implements Section 205(c) of the Oil and Gas Act by ensuring that well operators properly coordinate with DCNR to determine the impact of proposed oil and gas wells on State Park or State Forest land prior to their submission of well permit applications for such proposed wells to DEP.

APPLICABILITY: This guidance applies to DEP's review of well permit applications submitted for oil and gas development on State Park and State Forest land.

PENNSYLVANIA BULLETIN, VOL. 41, NO. 8
FEBRUARY 19, 2011

Rescission of Technical Guidance

DEP ID: 550-2116-001. Title: Policy for the Evaluation of Impacts of Oil and Gas Development on State Parks and State Forests. Description: This document, which was not subject to advanced public comment or review, is being rescinded as unnecessary and redundant of existing practice. The Department is implementing Section 205(c) and will continue to do so. The Department will continue to consider the input of all applicable parties with respect to public resources outlined in Section 205(c). Contact: Questions regarding the rescission of this policy document should be directed to Patricia Allan at pmallan@state.pa.us or (717) 783-8727.

Effective Date: February 19, 2011

MICHAEL L. KRANCER, *Acting Secretary*

[Pa.B. Doc. No. 11-285. Filed for public inspection February 18, 2011, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF OIL AND GAS MANAGEMENT**

**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
BUREAU OF FORESTRY AND BUREAU OF STATE PARKS**

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DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the rules in these policies that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

PAGE LENGTH: 6 pages

LOCATION: Volume 11, Tab 8

POLICY FOR THE EVALUATION OF IMPACTS OF OIL AND GAS DEVELOPMENT ON STATE PARKS AND STATE FORESTS

Regulatory Framework

The requirements for obtaining a permit to drill an oil or gas well in Pennsylvania are governed by the Oil and Gas Act.¹ One of the declared purposes in the act is to “protect the natural resources, environmental rights and values secured by the Pennsylvania Constitution.”² These Constitutional rights are set forth in Section 27 of Article I as follows:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

The Conservation and Natural Resources Act found that State Parks and State Forests are important public natural resources to be conserved and maintained for the use and benefit of all citizens as guaranteed by this Constitutional provision.³

Section 205(c) of the Oil and Gas Act requires DEP to consider the impact of a proposed well on public resources, including publicly owned parks and forests, when making a determination on a well permit.⁴ DEP requires that permit applications for drilling or altering oil or gas wells be submitted on Standard Form 5500-PM-OG0001 (Attachment “A”). If a well will be located where it may impact a public resource, the well permit application form (Item #12) requires that Standard Form 5500-PM-OG0076, Coordination of a Well Location with Public Resources (“Public Resources Form”) (Attachment “B”), be attached to the permit application form.

This policy describes the information that must be provided as part of the Public Resources Form to ensure that the well operator and DEP effectively coordinate with DCNR to consider the impacts of oil and gas wells that are proposed on State Park and State Forest land. DEP considers this information necessary and essential for the proper implementation of the requirements of § 205(c) of the Oil and Gas Act.

Well Operator Coordination with DCNR

Prior to preparing a plat showing a proposed oil or gas well location on State Park or State Forest land as required by Section 201(b) of the Oil and Gas Act,⁵ well operators must coordinate with DCNR in delineating areas of concern and evaluating the impact of their proposed well development activities on the public natural resources within the State Park or State Forest. DCNR has established the following single point of contact to facilitate coordination of such requests:

¹ Act of December 19, 1984, P.L. 1140, No. 223, as amended, 58 P.S. §§ 601.101 *et seq.*

² 58 P.S. 601.102(4).

³ Act of June 28, 1995, P.L. 89, No. 18, 71 P.S. §§ 1340.101.

⁴ 58 P.S. § 601.205(c).

⁵ 58 P.S. § 601.201(b).

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To facilitate DCNR's review of the impacts of proposed oil or gas wells on State Park or State Forest land, the well operator must identify all areas of the tract(s) to be developed that will be disturbed by oil and gas development activities, including but not limited to construction of wells, access roads, storage pads, pipelines, structures, impoundments, compressors, equipment and other facilities associated with development of the wells. This information should be provided to DCNR on a topographic map of sufficient scale to assess the general drainage patterns of the area. As discussed further below, DCNR will provide the well operator with a delineation of the areas of concern, an analysis of potential impacts and recommended response measures to minimize or mitigate such impacts (the "DCNR Environmental Review").

DCNR Delineation of Areas of Concern

DCNR will delineate with assistance from the well operator, as needed, the following areas of concern on the tract(s) of State Park or State Forest land to be developed:

- (1) Species of Concern Habitat – A search of the Pennsylvania Natural Diversity Inventory is required as part of the well permit application process. Any areas determined to contain habitat for any species of concern should be delineated.
- (2) Water Resources – All perennial and intermittent streams, springs, ponds, and other water resources should be identified and delineated. The water quality status of streams present within the project area should also be identified (*e.g.*, high quality or exceptional value as established in DEP regulations or DCNR resource management plans).
- (3) Public Water Supply Watershed – Any water resources that are used as a public water supply should be identified and the watershed area above the water supply intake should be delineated.
- (4) Wetlands and Floodplains – All wetlands and floodplains should be delineated and a description of the type and quality of the wetland should be provided.
- (5) Forest Resources – Unique or high-value areas of forest growth, as well as fenced forest regeneration areas should be delineated and described.
- (6) Other Natural Resources – Other natural resources such as wildlife and wildlife corridors that may be impacted should be delineated and described.
- (7) Steep Slopes – Areas with slopes exceeding twenty-five percent (25%) should be delineated as non-development areas. Areas with slopes of ten to twenty-five percent

- (10-25%) should also be delineated separately as areas requiring heightened erosion and sedimentation controls for earth disturbance activities. The bedrock geology, the composition and depth of soils and the attitude (dip degree and direction) of the bedrock should be considered in steep slope areas to evaluate slope stability.
- (8) Public Recreation Areas – All recreational facilities, including but not limited to trails, campgrounds, public parking areas, picnic areas, pools, beaches, comfort facilities, and visitor centers, should be delineated and described.
 - (9) Scenic Viewsheds – Scenic overlooks, vistas and other scenic viewsheds should be delineated.
 - (10) Private Facilities – Private facilities such as hunting camps, private residences and utility or pipeline transmission corridors should be delineated and described.
 - (11) Geologic Features – Unique or unusual geologic features (*e.g.*, rock outcroppings, caves) should be delineated and described.
 - (12) Other Features – Identify any other features that may be of significance in evaluating the impact of the proposed well development activity (*e.g.*, scenic river designations, national landmark designations, other sensitive vegetation).
 - (13) Archeological and Historic Sites – Any potential archeological or historic sites should be delineated and described.

DCNR Analysis of Potential Impacts & Recommended Response Measures

DCNR will analyze with assistance from the well operator, as needed, the potential impacts of the proposed oil and gas development activities on the delineated areas of concern and recommend measures to minimize and mitigate such impacts. The analysis should address the following:

- (1) Surface Water Quality/Quantity – Describe the quality and quantity of the existing water resources, oil and gas development activities that could degrade water quality or diminish water quantity, measures that could be taken to avoid such degradation or diminution, and monitoring that could be performed to ensure the measures are implemented effectively. Any biological or chemical data available to support the description of existing water quality, as well as any documentation of water quantity, should be provided.
- (2) Ground Water Quality/Quantity – Provide all information known about the existing ground water quality and quantity, anticipated impacts of the oil and gas development activities on ground water, and measures that will be taken to avoid such impacts.
- (3) Air Quality – Describe odors or other emissions that may result from the oil and gas development activities, their potential impacts, and measures that should be taken to minimize such odors or emissions.

- (4) Ecological Diversity & Integrity – Assess the biological diversity of the area and overall integrity of the ecosystem. Describe oil and gas development activities that could impact the biological diversity and integrity of the ecosystem and the measures that should be taken to minimize and mitigate such impacts.
- (5) Forest Fragmentation – Describe the potential consequences of forest fragmentation that will occur as a result of the oil and gas development activities and measures that should be taken to minimize and mitigate such impacts.
- (6) Invasive Species – Describe measures that should be taken to avoid the introduction of non-native invasive species to the site as a result of oil and gas development activities.
- (7) Stormwater, Erosion & Sedimentation – Describe the measures that should be taken to control erosion from stormwater runoff and prevent the transport of sediment and other constituents into the environment as a result of oil and gas development activities.
- (8) Public Access/Safety – Describe the measures that should be taken to control public access to the oil and gas development facilities and ensure public safety at all times during oil and gas development activities.
- (9) Aesthetic Impacts – Describe the extent to which the oil and gas development activities will be visible from trails, campgrounds or other public recreational facilities, roads, nearby hunting camps, residences or other occupied structures. Also describe measures that should be taken to minimize visibility of the oil and gas infrastructure that will remain upon completion.
- (10) Noise – Describe the noise levels that will result from various oil and gas development activities and measures that should be taken to minimize the noise impact.
- (11) Roads – Describe the condition of the existing roads that will be used for oil and gas development activities and the road construction methods that should be employed to construct new roads. Assess the impact of the proposed oil and gas development activities on the existing roads, as well as the anticipated impacts resulting from construction of new roads. Describe measures that should be taken to minimize the impacts to existing roads as well as the impacts from new road construction.
- (12) Vegetation – Describe the types of existing vegetation present and the condition of the vegetation. Quantify the amounts of vegetation types that are likely to be removed (*e.g.*, number/size of trees removed, acres/square footage of other types of vegetation removed). Evaluate the resource and ecological value of the lost vegetation and measures that should be taken to minimize and mitigate such loss.
- (13) Recreational Impacts – Assess the impact of the oil and gas development activities on the recreational value of the State Park or State Forest, including an evaluation of the loss of primitive or wilderness recreational experiences in remote areas inaccessible

by motorized vehicles prior to well development and the impact of well flaring and other lighting on dark sky recreational opportunities.

- (14) Cumulative Impacts – Describe the cumulative impacts of the proposed oil and gas activities on the tract(s) to be developed and the overall changes to the nature of the State Park or State Forest that are expected to result from that cumulative impact.
- (15) Other Impacts – Describe any other impacts to the public natural resources that may occur as a result of the well development activities and measures that should be taken to minimize and mitigate such impacts.

Coordination of Well Permit Application Review by DEP and DCNR

A well operator that has coordinated with DCNR regarding potential impacts to public natural resources on State Park or State Forest land must submit to DEP as part of the Public Resources Form included with the well permit application the DCNR Environmental Review. If DCNR and the well operator are in agreement on the recommended response measures, DCNR will provide a letter to the well operator for inclusion with the well permit application indicating such agreement and DEP will include the recommended response measures as permit conditions. To the extent DCNR does not provide a letter of agreement, DEP will consult with DCNR concerning the DCNR Environmental Review and the permit conditions that should be included in the well permit prior to issuance of the well permit in order to properly implement the requirements of § 205(c) of the Oil and Gas Act.

DEP will attempt to promptly notify DCNR of any well permit application for a proposed oil or gas well on State Park or State Forest land that does not include a DCNR Environmental Review or letter indicating that DCNR agrees with the proposed response measures. Upon request, DEP will provide DCNR with a full copy of the well permit application, including the Public Resources Form and any analysis the well operator has provided regarding the potential impacts of the oil and gas development on public natural resources on the State Park or State Forest land. A well permit application that does not include sufficient information to allow DEP to effectively consider the impacts of the oil and gas development activities to these public natural resources will not be considered to be complete.⁶

At or prior to the time the well operator files its well permit application with DEP, the well operator should have forwarded to DCNR a copy of the plat showing the proposed well on State Park or State Forest land as required by Section 201(b) of the Oil and Gas Act.⁷ If the well operator has not coordinated with DCNR in evaluating the impacts of the proposed oil and gas development activity to the public natural resources of the State Park or State Forest land prior to forwarding the plat, DCNR will file an objection to the plat with DEP. DEP will schedule a conference with the well operator and DCNR at which time DCNR will provide its delineation of areas of concern on the tract(s) of State Park or State Forest land at issue and its analysis of potential impacts and recommended response measures for DEP's consideration in issuance of the well permit.

⁶ See 25 Pa. Code § 78.15(b)

⁷ 58 P.S. § 601.201(b).