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March 31, 2016

Independent Regulatory Review Commission  
John F. Mizner, Esq., Chairman  
333 Market Street, 14th Floor  
Harrisburg, PA 17101

RE: Support for Performance Standards at Oil and Gas Well Sites Rulemaking

Dear Commission Members,

We, the undersigned legislators, write to urge our strong support for the Commission to adopt the Department of Environmental Protection's recently submitted Performance Standards at Oil and Gas Well Sites rulemaking (#7-484). This rulemaking, nearly four years in the making, will provide a much needed and long overdue strengthening of the Commonwealth's oil and gas regulatory program by enhancing environmental and public health protections while simultaneously recognizing and providing for the needs of the industry. As these regulations have not been updated since 2001, their modernization is vital to ensuring that Pennsylvania's environment is protected.

This rulemaking would enhance our public resource protections, including those for state parks and forests, playgrounds, schools, and public water supplies, provide for a pre-drilling review of potential abandoned and operating wells, require water supply restoration standards for operators who degrade a water supply, and enhanced spill reporting and clean-up requirements.

The Department of Environmental Protection (DEP) has been engaged in an unprecedented public engagement process throughout the development of this rulemaking. DEP held 12 public meetings across the state to solicit the input of both the public and the regulated community, opened two separate public comment periods that yielded nearly 28,000 comments, and has worked closely with the Technical Advisory Board (TAB) and the Conventional Oil and Gas Advisory Board (COGAC) to craft these regulations. Additionally, each iteration of this rulemaking has been publically posted online and has been subject to two dozen meetings by both TAB and COGAC. In fact, DEP made real-time edits to this rulemaking at TAB meetings in response to industry feedback.

When the Environmental Quality Board (EQB) in 2013 set out to update gas drilling regulations in accordance with Act 13 of 2012, they sought to update the regulatory requirements for both conventional and unconventional operators. The proposed regulations clearly differentiated the provisions that were to apply to conventional operations and which would apply to unconventional


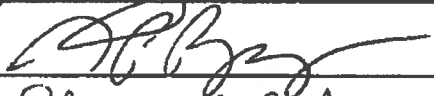




operations. The requirements under the proposed regulation for conventional wells were, and continue to be, much less restrictive than for unconventional wells.



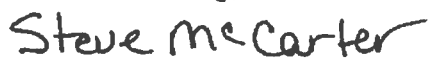



Upon the direction of the General Assembly in 2014 to bifurcate regulations relating to conventional oil and gas operations, DEP complied with this law and proceeded with the promulgation of separate regulations (Ch. 78 and Ch. 78a). While the distinction between conventional and unconventional were readily apparent in the proposed rulemaking, they further grew in the final rulemaking. Key differences include the requirements for vandal-proofing tanks, the use of pits, the disposal of drill cuttings, secondary containment, gathering lines, temporary pipelines, water management plans, the beneficial use of brine, and product and waste reporting. DEP has recognized the distinction between conventional and unconventional operations and has adjusted their regulatory requirements as such, despite the fact that conventional operators have a much higher rate of enforcement actions and non-compliance with environmental regulations than unconventional operators.

Some have criticized the procedural steps the Department took when submitting its Regulatory Analysis Form (RAF). In fact, the Department complied with this requirement by submitting a complete and comprehensive RAF on the same day as it submitted the proposed rulemaking package to the Commission, Legislative Reference Bureau and committees. After holding two public comment periods, 12 public hearings, two dozen advisory committee meetings, and receiving nearly 28,000 comments, they faced the monumental task of incorporating this stakeholder feedback into the final form regulation and revised RAF in a timely manner, a task they successfully accomplished.

While some have criticized the Department for not going far enough, we believe the environmental protections outlined in this rulemaking are appropriate and needed to protect public health and the environment. By focusing on protecting the commonwealth's natural and public resources, public health and safety, while balancing the concerns of landowners and the regulated community, DEP has successfully accomplished its constitutional mandate "to protect Pennsylvania's air, land and water from pollution and to provide for the health and safety of its citizens through a cleaner environment." We urge the Commission's adoption of this rulemaking.

Sincerely,

  
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