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May 14, 2015

John Quigley, Acting Secretary
Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

Dear Acting Secretary Quigley:

We write you today, as the co-chairs of the House Gas and Oil Caucus (GOC), a bipartisan group of almost 100 members of the Pennsylvania House of Representatives who support the sustained growth and development of a safe, responsible natural gas industry in Pennsylvania. Many of our members have expressed concerns over the process and policy being considered by the Department of Environmental Protection (DEP) during the promulgation of changes to the Chapter 78 regulations.

The natural gas industry has had a significant positive impact in Pennsylvania over the past decade. The industry has created tens of thousands of good-paying, Pennsylvania jobs, helping to keep Pennsylvania's unemployment rate well below the national average and the lowest it's been since the recession began in September 2008. This industry has generated more than \$2.1 billion in various taxes statewide, in addition to the \$850 million in tax revenues paid through the Act 13 impact fee.

Pennsylvania has a longstanding, comprehensive process for the adoption of regulations which is clearly-defined in the Regulatory Review Act (RRA), and it provides a thorough set of checks and balances between the executive rulemaking agency and the General Assembly, including the legislative intent of the underlying laws granting regulatory authority. Unfortunately, the process which the DEP has pursued in relation to the changes to Chapter 78 seems to misuse that process in a manner that skirts many of the inherent protections set up therein.

By inserting complex new provisions that were not previously discussed into the final draft rulemaking, thereby waiting until the proverbial "11th hour" of the process, the DEP is impeding the role of the appropriate legislative oversight committees and Independent Regulatory Review Commission (IRRC) to adequately comment and if necessary object to the substantive aspects of these regulations. The General Assembly through the RRA has specifically required a cost-benefit analysis and analysis of the impacts on small businesses to ensure that we are aware of the effect proposed regulations will have upon this vital sector of our economy. However, due to the late addition of these provisions, we do not have a full understanding of how they will impact the natural gas industry and associated businesses.

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As it pertains to the substance of the regulations, we have serious concerns regarding the scope, lack of authority, and vagueness of a number of the provisions. The regulations would create an overreach by the DEP into areas where it is not authorized to regulate, either by statute or Supreme Court ruling, such as noise mitigation and establishing new requirements related to wildlife species. Additionally, many of the regulations, such as those regarding noise mitigation, are poorly defined and would allow for unpredictable and non-uniform enforcement thus creating a high level of uncertainty for companies who seek to remain in compliance. Without clearly defined regulations, much of the enforcement will be based on interpretation rather than rules.

Instead of working to partner with industry to improve the process, these regulations appear to unfairly single out the natural gas industry for regulation in a manner that is not uniform, consistent or fair relative to other industries conducting similar operations or undertaking similar activities in Pennsylvania. Pennsylvania is making positive and meaningful economic progress, with more opportunities tied to shale development being created each day. The future opportunities for all Pennsylvanians will continue to grow only if we advance common sense policies aimed at promoting this promising industry in a safe, responsible manner.

In closing, the members of the GOC would encourage you to reconsider the substantive additions and process through which the changes to the Chapter 78 regulations are being adopted. While some of the substantive proposals inserted into the draft final rulemaking may merit consideration, it is only with adequate vetting and review by the appropriate legislative oversight committees and IRRRC that we can ensure the legislative intent is properly balanced with the need to have thorough and responsible regulation of the natural gas industry.

Sincerely,



Rep. Jaret Gibbons
Co-Chair, House Gas and Oil Caucus



Rep. Donna Oberlander
Co-Chair, House Gas and Oil Caucus

Cc: IRRRC