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Cooper, Kathy

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**From:** RegComments@pa.gov  
**Sent:** Tuesday, May 19, 2015 11:25 AM  
**To:** Environment-Committee@pasenate.com; apankake@pasen.gov; IRRC;  
RegComments@pa.gov; eregop@pahousegop.com;  
environmentalcommittee@pahouse.net; gvitali@pahouse.net  
**Cc:** ra-epmsdevelopment@pa.gov  
**Subject:** Comment notice for - Advanced Notice of Final Rulemaking - Environmental Protection  
Performance Standards at Oil and Gas Well Sites (7-484)



**Re: Advanced Notice of Final Rulemaking - Environmental Protection Performance  
Standards at Oil and Gas Well Sites (7-484)**

**The following comments have been received regarding the above-referenced advanced  
notice of final rulemaking.**

Commentator Information:

Senator Gene Yaw  
Senate of Pennsylvania ([gyaw@pasen.gov](mailto:gyaw@pasen.gov))  
362 Main Capitol Building  
Harrisburg, PA 17120 US

Comments entered:

To whom it may concern:

Under Act 13 of 2012, the Department is tasked with making regulatory changes to Chapter 78 (Oil and Gas). Unfortunately, the Department has gone beyond its statutory authority and made far-reaching changes without properly consulting the impacted industries. I have serious concerns on the process to which the Advanced Notice for Final Rulemaking (ANFR) has been submitted and with the substantive changes made under this rulemaking.

The ANFR is not part of the formal rulemaking process and doesn't afford the standing committees or IRRC an opportunity to comment. My understanding is that this process is used to make slight modifications based off of the public comment period, not wholesale changes never before discussed or considered under the proposed rule.

Furthermore, the Department has clearly violated the Regulatory Review Act throughout this process. First, they refuse to disclose the responses to the 24,000 comments received during the proposed rulemaking as required by law. This has severely compromised the ability of all interested parties to comment during this comment period without understanding as to why the Department has made the substantial changes. Second, the Regulatory Review Act requires the Department to do an economic cost analysis and small business impact analysis, which has not been done with the new additions under the ANFR. This limits the EQB, the standing committees and IRRC's ability to fully understand the true economic impact of this regulatory package.

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Substantively, the changes that I'm most concerned with are the new noise standards, expanded public resources considerations, bans of certain drilling practices and new standards for storage tanks. Several of these new requirements exceed the Department's authority granted by the General Assembly or violate the Supreme Court's ruling in the Act 13 decision. I feel these changes should either be withdrawn or offered as a separate proposed rulemaking, which will allow for a thorough review, more public participation and provide clarity to the economic impact.

The regulatory process is clear in that it specifically states that it is intended to curtail excessive regulation and to require the executive branch to justify its exercise of authority to regulate before imposing hidden costs upon the economy of Pennsylvania. The Department has not followed the spirit, or letter, of the law and in doing so, has severely jeopardized the legitimacy of the process.

Thank you for your attention to these important matters.

No attachments were included as part of this comment.

Please contact me if you have any questions.

Sincerely,  
Patrick McDonnell

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