



REPLY TO REGULATORY ANALYSIS FORM
25 PA CODE Chapter 78 Subchapter C

Comments by Harvey L. Golubock
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Good evening. My name is Harvey Golubock. I am President of ARG Resources, a crude oil producer owning and operating a 1500 well waterflood operation on 40,000 acres in the ANF. I am also Vice Chairman of American Refining Group, Inc., the owner and operator of the ARG refinery in Bradford, PA. It is the only refinery in PA to operate solely on Pennsylvania Grade crude oil.

My comments this evening are directed toward the Regulatory Review Act

The preamble to the Act states:

(a) "The General Assembly has enacted a large number of statutes and has conferred on boards, commissions, departments and agencies within the executive branch of government the authority to adopt rules and regulations to implement those statutes. The General Assembly has found that this delegation of its authority has resulted in regulations being promulgated without undergoing effective review concerning cost benefits, duplication, inflationary impact and conformity to legislative intent. The General Assembly finds that it must establish a procedure for oversight and review of regulations adopted pursuant to this delegation of legislative power in order to curtail excessive regulation and to require the executive branch to justify its exercise of the authority to regulate before imposing hidden costs upon the economy of Pennsylvania.....To the greatest extent possible, this act is intended to encourage the resolution of objections to a regulation and the reaching of a consensus among the commission, the standing committees, interested parties and the agency."

"(c) This act is intended to improve State rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small businesses"

Section 3 of the Act lists fourteen (14) requirements of the regulatory analysis some simply administrative, others are more substantive. Section 10 requires DEP to provide an economic impact statement that includes:

- 1) identification of the number of small businesses subject to the rule;

- 2) projected reporting, recordkeeping and administrative costs of compliance,
- 3) a statement of the probable effect on impacted small businesses; and
- 4) a description of less intrusive or less costly alternatives that could achieve the purposes of the rule.

In my opinion, DEP has failed to provide an adequate economic impact statement as it has failed to;

- (a) identify ancillary businesses that will be impacted by the rule;
- (b) appreciate the administrative burdens being placed upon very small operators
- (c) provide factual data to support the assumptions of adverse impact on tourism and harmful impacts to state parks
- (d) provide less intrusive or less costly alternatives as specifically called for in the Act.

Section 12.1 of the RRA requires DEP to conduct a regulatory flexibility analysis in which it must consider methods that would accomplish the objectives of the applicable statutes while minimizing adverse impacts on small businesses. Such analysis must include consideration of:

- 1) less stringent compliance or reporting requirements;
- 2) less stringent schedules or deadlines for compliance or reporting requirements;
- 3) consolidation or simplification of compliance or reporting requirements;
- 4) establishment of performance standards to replace design or operational standards; and
- 5) exemption of small businesses from all or any part of the requirements contained in the rule.

DEP failed to provide an adequate Regulatory Flexibility Analysis under the RRA for the following reasons:

- (a) DEP's proposed rule provides NO express accommodations for small businesses in any section of the rule.
- (b) Electronic reporting is actually a requirement that will create new burdens and costs for small businesses.
- (c) New requirements for certifications from licensed professionals and scientists will add substantial costs for small businesses where performance standards could easily be substituted for this operational standard.
- (d) DEP failed to consider or provide an exemption for small business from all or any part of the rule, even where such exemption would not impede accomplishment of the objectives of the applicable statutes.

DEP's full compliance with the RRA would likely have resulted in regulations that acknowledged the impact on small business and provided alternatives. This is not unprecedented. Several other programs provide subsections of rules for different aspects of operations within one industry. This rulemaking is the perfect opportunity to draft separate rules for conventional and unconventional operations. In addition, alternatives and exemptions for small businesses could be provided in both rules, as some unconventional operators qualify for the definition of small business under the RRA.