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Public Comment by Janet McQuaid, Speaker #38 (April 29, 2015), Opposing the Environmental Protection Performance Standards at Oil and Gas Well Sites; Advance Notice of Final Rulemaking, 25 PA. CODE CHS. 78, 78a, 45 Pa.B. 1615 (April 4, 2015)

My name is Janet McQuaid. I oppose the new requirements added to Chapter 78a in the draft final rule.¹

I live at 142 Redwood Drive, Venetia, Washington County, Pennsylvania, 15367. I live in the house I grew up in, with my father, who has lived there for fifty years. I graduated from Peters Township High School in 1974 and Pitt in 1978. Nobody was hiring, so I took a job in the oil and gas industry and moved out of state.

I am very grateful that a job created by the oil and gas industry allowed me to move home in 2011. A year ago, my father, who is 86, had emergency back surgery. He is now confined to a wheelchair. He can still live at home, but only because I live there, too. But for a job created by the oil and gas industry here, I would be working and living far away, and my father would be living in a nursing home.

I have worked in the oil and gas industry now or thirty-five years, first as an engineer and now as a lawyer. I am speaking my own opinions tonight, on my own behalf. I signed up to speak because I want DEP to remember that this industry consists of people. We live here, and so do our families. We go to work every day in this industry. Our views are informed by facts, education, and experience.

And the fact is, Pennsylvania already has very stringent environmental regulations over oil and gas activities. I know this from experience, but you don't have to take my word for it. Pennsylvania's regulations were commended in 2013 by STRONGER, a well-respected, independent organization whose review committees include environmental, government, and industry experts.²

DEP's December 2013 proposed rule would have imposed even tougher new requirements on the oil and gas industry than the rules commended by STRONGER. Industry did not necessarily like everything that emerged from the two-year rulemaking process, but at least that process was thorough and fair.

In contrast, DEP's current rush to impose significant, new requirements via a draft final rule abuses the rulemaking process. Industry is not being given enough time to review and comment on the new changes, nor will the EQB, the IRRC, or the legislative committees who are required sign off on the rules.

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¹ Particular problems in the additions include, but may not be limited to, changes to Section 78a.41 (requiring noise mitigation); 78a.51 (requiring restoration to better than drinking water or pre-drill quality); 78a.56 (prohibiting waste storage pits); 78a.57 (prohibiting production fluid pits); 78.57a (establishing centralized tank storage standards); 78.59c (requiring residual waste permits for centralized recycled water impoundments and closure of existing impoundments); 78a.66 (imposing Act 2 requirements on all spills and releases); and 78a.121 (requiring monthly waste/reuse reports), possibly among other problematic changes I have not yet had time to identify.

² State Review of Oil and Gas Regulations, Inc. (STRONGER), Pennsylvania Follow-Up Review (September 2013) (<http://strongerinc.org>) (under State Reviews, Past Reviews).

Pennsylvania needs, and President Obama wants, sensible, cost-effective environmental standards. Abundant, affordable natural gas³ is fueling investment in US manufacturing and helping sustain this country's remaining steel mills.⁴ In addition, it is reducing reliance on energy imports and increasing exports, making us stronger globally against unfriendly governments like Russia and Iran.⁵

That is why President Obama has stated unequivocally that it is “vital that we take full advantage of our natural gas resources.”⁶ To encourage natural gas production, the President issued an Executive Order instructing Federal agencies to ensure that their rules “set[] sensible, cost-effective public health and environmental standards.”⁷ Pennsylvania produces fully twenty-five percent of the natural gas in the US. “Taking full advantage” of Pennsylvania’s natural gas resources is clearly going to be important to achieving the President’s energy goals. Ironically, DEP’s draft final rule does exactly the opposite of what the President has ordered Federal agencies to do.

Far from being sensible and cost effective, the new additions to the draft final rule are nothing short of punitive. They impose burdens on the oil and gas industry not borne by any other industry in Pennsylvania or any other state. And for no discernable reason, unless we are to accept the personal preferences of a new Administration as reason enough. Everybody knows that elections have consequences; but changes to agency rules must be justified and fairly adopted. DEP’s attempt to adopt significant changes to Chapter 78a as a draft final rule is exactly the type of arbitrary, political whiplashing the Administrative Procedures Act was enacted to prevent.

So who could blame the oil and gas companies if they were to leave Pennsylvania for fairer regulatory climates? And it would be a shame if they were to go; for our nation, state, communities, and families.

I urge DEP to withdraw the new requirements in the draft final rule. If the agency wants to adopt additions to Chapter 78a in the future, it can do that—later, in a fair, regular, and legally sufficient rulemaking process.

This concludes my remarks. Thank you for your consideration.

³ The price of natural gas last month in the US was \$2.83 per million BTU. Henry Hub Spot Price (March 2015), www.eia.gov. The price in Europe was about \$7 and in Asia was about \$10. Ambrose Evan-Pritchard, Business Editor, UK Telegraph (April 26, 2015) (Finance/Energy Sector).

⁴ Ambrose Evan-Pritchard, Business Editor, UK Telegraph (April 26, 2015) (Finance/Energy Sector).

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⁶ Executive Order 13605—Supporting Safe and Responsible Development of Unconventional Domestic Natural Gas Resources (April 12, 2012).

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