

BEFORE THE PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

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IN RE: ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS
AT OIL AND GAS WELL SITES - DRAFT FINAL RULEMAKING

PUBLIC HEARING

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BEFORE: Laura Edinger, Chair
John Ryder, Member
Kurt Klapkowski, Member
Kelly Burch, Member

HEARING: Monday May 4, 2015
6:01 p.m.

LOCATION: Pennsylvania College of Technology
1 College Avenue
Williamsport, PA 17701

WITNESSES: Mark Cline, Sr.; Nathan Sooy; Dan Alters;
John Trallo; Stephanie Wissman; Jack Miller; Bryn
Hammarstrom

Reporter: Lindsey Deann Powell

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WITNESSES (cont.): John Augustine; Deb Nardone; Beth Powell; Paul Hart; John Stewart; Tyler Martin; Gary Metzger; Tammy Bonnice; Robert Deering; Timothy Eriksen; John Ryan; Matt Henderson; Thomas Gillespie; Melissa Troutman; Diane Ward; Mark Fischer; Charles Amer; Harvey Golubock; Barbara Jarmoska; Rich Adams; Derek Soyke; Emily Krafjack; Todd Harman; Donna Christianson; Dale Howard; Maryann Heston; Senator Scott Hutchinson

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ALSO PRESENT:

Dan Spadoni, Community Relations Coordinator - DEP

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CHAIR:

I'd like to welcome you to the Department of Environmental Protection's public hearing on the Environmental Protection Performance Standards at Oil and Gas Well Sites draft final rulemaking. My name is Laura Edinger. I am the Regulatory Coordinator with DEP's Policy Office, and I'm chairing tonight's hearing.

Joining me tonight are Kurt Klapkowski, Director of DEP's Bureau of Oil and Gas Planning and Program Management, and Kelly Burch, Executive Director of the Office of Oil and Gas Management. As well as John Ryder, with the DEP's Office of Oil and Gas Management North-Central Regional Office. Also joining us tonight are Liz Nolan, with DEP's Office of Chief Counsel, and Dan Spadoni, Community Relations Coordinator for DEP's North-Central Regional Office.

I'm officially calling this hearing to order at 6:02 p.m. At this time, I'd like to request that everyone please silence your cell phones. The purpose of this hearing is to accept testimony on DEP's recommended changes to the Environmental Protection Performance Standards at Oil and Gas Well

1 Sites proposed rulemaking. The primary goal of this
2 rulemaking is to ensure that oil and gas operators
3 employ effective measures that prevent pollution,
4 while allowing flexibility for the optimal development
5 of this natural resource.

6 These rules focus on performance over
7 process and a commitment to responsible environmental
8 protection for oil and gas extraction activities in
9 this Commonwealth. The amendments are designed to
10 strengthen the environmental controls employed by this
11 industry to ensure the protection of public health and
12 safety and the environment. This rulemaking modifies
13 and updates existing requirements for surface
14 activities at conventional and unconventional oil and
15 gas well sites, implements Act 13 of 2012, and it
16 codifies existing policy.

17 The revisions include separate chapters
18 to address conventional and unconventional development
19 - Chapter 78 for conventional wells and Chapter 78A
20 for unconventional wells. The amendments are offered
21 to improve protection of water resources, add to the
22 public resources considerations, protect public
23 safety, address landowner concerns, enhance
24 transparency, and improve data management.

25 DEP is requesting that commentators

1 focus their comments on language that is changed from
2 the proposed rulemaking.

3 In order to give everyone an equal
4 opportunity to comment on the proposal, I would like
5 to establish the following ground rules: I will first
6 call upon the witnesses who have pre-registered to
7 testify at this hearing. After hearing from these
8 witnesses, I will provide any other interested parties
9 with the opportunity to testify, as time allows. And
10 just a quick note, we have two microphones here. I'd
11 like to invite you up to the podium to speak, but if
12 you have any issue with stairs or stages, please feel
13 free to use the floor mic.

14 We currently have 33 witnesses
15 registered to testify this evening. I will call your
16 names three at a time, so you can make your way to the
17 microphone. After your name is called, please come to
18 the front, so you're prepared to testify once the
19 person before you has finished with their testimony.

20 Testimony is limited to five minutes for
21 each witness. I ask that you please be respectful of
22 the people that come after you and end your sentence
23 once your time is up. We have a timekeeper that will
24 raise a yellow warning card when you have one minute
25 left, and a bright pink card when your time is up. If

1 you run out of time for your spoken testimony, please
2 don't worry. Written and spoken comments carry the
3 same weight. That's why we requested written copies
4 of your testimony. So if you do run out of time, we
5 will read the rest of your comments in the written
6 testimony. On that note, please make sure that your
7 name and address are clearly marked on all copies of
8 your written testimony. Also, providing an e-mail
9 address is helpful.

10 Organizations are required to designate
11 one witness to present testimony on its behalf. Each
12 witness is asked to submit three written copies of his
13 or her testimony to aid in transcribing the hearing.
14 Please place two copies in the box marked Public
15 Comments, which is right next to the stenographer.
16 And please hand one copy directly to our stenographer
17 prior to presenting your testimony.

18 Please state your name, address and
19 affiliation for the record, prior to presenting your
20 testimony. DEP would appreciate your help by spelling
21 names and terms that may not be generally familiar, so
22 that the transcript will be as accurate as possible.

23 Because the purpose of a hearing is to
24 receive comments on the proposal, DEP staff cannot
25 address questions about the rulemaking during the

1 duration of this hearing.

2 In addition to, or in place of verbal
3 testimony presented at today's hearing, interested
4 persons may also submit written comments on this
5 proposal. Again, written and verbal comments hold the
6 same weight when considered in the finalization of
7 this rulemaking. All comments provided become a part
8 of the official public record.

9 All comments on this draft final
10 rulemaking must be received by DEP on or before
11 May 19th. Comments should be addressed to the
12 Department of Environmental Protection, Policy Office,
13 P.O. Box 2063, Harrisburg, PA 17105. Comments may
14 also be e-mailed to RegComments --- that's
15 R-E-G-C-O-M-M-E-N-T-S --- @pa.gov, or submitted online
16 through the Environmental Regulatory Comments System,
17 accessible from DEP's website.

18 All comments received at this hearing,
19 as well as written comments received by May 19th, will
20 be considered by DEP in the finalization of this
21 rulemaking, and will be included in a Comment/Response
22 document, which will be prepared by the DEP and
23 reviewed by the Environmental Quality Board prior to
24 the Board taking its final action on this regulation.

25 Please note, there are copies available

1 of the Citizen's Guide to DEP's Regulations at the
2 front table as you were coming in this evening.
3 Inside this document you will find descriptions of the
4 Environmental Regulatory Process in Pennsylvania, how
5 to submit comments, and tips for submitting effective
6 comments.

7 Anyone interested in receiving a copy of
8 the transcript of today's hearing may contact DEP at
9 (717) 787-4526 for further information.

10 I would now like to call the first
11 commentator. The first three names on our list
12 tonight are Joseph Thompson. Second, Mark Cline, Sr.
13 Three, Nathan Sooy. If I say any of these names
14 wrong, please correct me on the record. Joseph
15 Thompson?

16 AUDIENCE MEMBER:

17 I don't see him.

18 CHAIR:

19 Okay. Mark Cline, Sr.?

20 MR. CLINE:

21 Mark Cline, 1 Longfellow Avenue,
22 Bradford, PA, 16701. I am President of the
23 Pennsylvania Independent Petroleum Producers. I am a
24 member of the Conventional Oil and Gas Advisory
25 Committee. There are important differences between

1 the storage tanks used by small, independent
2 conventional operators and the storage tanks used by
3 large, billion-dollar corporations in unconventional
4 operations. There are four basic types of tanks used
5 in conventional operations: One is an oil storage
6 tank, which ranges from 50 to 210 barrels. Two is an
7 oil and water separator tank, which ranges from 1 to
8 20 barrels. Three is a water production tank or brine
9 tank which ranges from 100 to 210 barrels. And four
10 is a gas well condensate tank, which ranges from 10 to
11 a hundred barrels.

12 The chemistry/salinity of conventional
13 brine is also much different than that of
14 unconventional brine. The Pennsylvania Grade Crude
15 Oil Coalition estimates that there are approximately
16 175,000 storage tanks in use in conventional
17 operations. When compared to the size of the tanks
18 used in unconventional operations, there simply is no
19 comparison.

20 The additional restrictions the
21 Department is seeking to impose on storage tanks used
22 in conventional operations are a solution looking for
23 a problem. According to the Department's online
24 compliance reports, the Department conducted 13,445
25 well inspections in 2014, a 78 percent increase over

1 2008, while there was an 83 percent decline in
2 new drilling. Of those 13,445 inspections, only 8
3 revealed leaking tanks in use in conventional
4 operations. This represents a mere .00059 percent of
5 all well inspections conducted in 2014. It also
6 represents just .000045 percent of the approximately
7 175,000 tanks in use in the conventional industry.
8 This is hardly justification for tougher regulations
9 governing the use of storage tanks in conventional
10 operations.

11 In its regulatory analysis form, the
12 Department acknowledges that conventional operators
13 are much smaller in scope and they generate far less
14 waste than unconventional drilling; therefore, the
15 potential impact to the environment is significantly
16 less. Despite this acknowledgement, the sections
17 78.57 and 78.57A are virtually identical for
18 conventional and unconventional operators, with one
19 exception relating to site security. It is obvious
20 that all the Department did in response to Act
21 126 of 2014 was cut and paste the language. Clearly,
22 Pennsylvanians who rely on conventional operations to
23 put food on the table deserve more of an effort from
24 the Department.

25 Make no mistake, application of sections

1 78.57 and 78.57A, as contained in the draft final
2 rule, will result in the extinction of small,
3 independent conventional operators in Pennsylvania.

4 In section 78.57A, the Department seeks
5 to impose a complex and costly set of new rules
6 governing the permitting, bonding, insurance, siting,
7 design, performance standards, use of design engineers
8 and mandatory reporting. The term centralized
9 tank storage site is not defined, presumably making it
10 applicable to all storage tank sites, regardless of
11 their size. Clearly, this section was intended for
12 temporary, million gallon brine storage tanks used in
13 unconventional operations and should be removed
14 entirely from Chapter 78.

15 In section 78.57, the Department
16 requires that all new, refurbished or replaced
17 production fluid tanks meet corrosion control
18 requirements. Aside from the fact that
19 the Department's own data does not demonstrate the
20 need for such a requirement, implementation of this
21 requirement would add an average of \$933 to the price
22 of a storage tank. With an estimated 175,000 storage
23 tanks in use by the conventional industry today, this
24 will add an additional \$163,000,000 in costs to our
25 industry. When you factor in the cost of cathodic

1 protection at \$350 per tank, which comes to \$61.2
2 million for our industry, and monthly inspections at
3 \$30 per tank, it comes to \$5.2 million annually for
4 the industry. It's not difficult to see how this
5 section could easily cripple our industry.

6 Under the Regulatory Review Act, the
7 Independent Regulatory Review Commission is required
8 to consider the impact on public interest of exempting
9 or setting lesser standards of compliance for
10 individuals or small businesses when it is lawful,
11 desirable and feasible to do so.

12 At PIPP, we are small business. We are
13 individuals. I urge you to exempt my members from
14 these new rules and preserve our way of life. Thank
15 you.

16 CHAIR:

17 Thank you, Mr. Cline. Next up, Nathan
18 Sooy?

19 MR. SOOY:

20 Sooy (corrects pronunciation).

21 CHAIR:

22 Sooy (changes pronunciation).

23 MR. SOOY:

24 Sooy.

25 CHAIR:

1 My apologies.

2 MR. SOOY:

3 My name is Nathan Sooy. I'm the Central
4 Pennsylvania Campaign Coordinator for Clean Water
5 Action. We're actually an environmental organization
6 here in Pennsylvania. We have about 120,000 members.

7 We would like to congratulate Governor
8 Wolf's initiative on the oil and gas regulations. We
9 think that it's going in a basically good direction.
10 While Clean Water Action is not as optimistic about
11 the ability of the gas industry to maintain good and
12 clean standards for the long term, we do think that
13 this is all going in a good direction.

14 Now, having said that, we have something
15 very specific to say about a couple different items.
16 Standards for frack pits and impoundments, Sections
17 78.56, 78.57, 78.58 and 78.59. Mounting violations
18 and the potential for water and air pollution have
19 already led some companies to transition away from
20 pits and standardize the use of closed loop systems
21 for the storage and treatment of waste. Issues with
22 frack pits have led to contaminated water and resulted
23 in the largest state fines ever against a driller in
24 Pennsylvania, over \$4 million, to Range Resources and
25 XTO for water contamination due to leaking.

1 The DEP should amend the final
2 regulations to, one, prohibit regulators from using
3 any open-air pits and tanks, regardless of size or
4 location, for storage and treatment of regulated
5 waste, including wastewater, drill cuttings, and
6 substances like gels and cement, that return to the
7 surface after fracking. The new provisions prohibit
8 the use of production pits at shale gas well sites.
9 And that's an important change that should be
10 supported. But the use of huge impoundments to
11 service multiple wells would still be allowed. Waste
12 should be stored and treated only in closed,
13 aboveground systems.

14 Two, require all waste impoundments to
15 be properly closed immediately after the effective
16 date of the regulations. The revisions give operators
17 three years to either properly close their existing
18 impoundments or bring them under compliance with the
19 construction requirements in residual waste permits.
20 This is an improvement, but still puts nearby
21 residents and the environment at risk.

22 And three, require that tanks used for
23 the storage of waste be completely enclosed. The
24 revisions give operators the option of using tanks
25 without lids to store waste on the well sites, making

1 it more likely that polluting spills and emissions
2 will occur.

3 On the question of the definition of
4 public resource, Sections 78.15, 78.57, 78a.15 and
5 78.7 --- .57a, we want to note that we are for ---.
6 To improve the protection from pollution, noise and
7 light and safety from traffic accidents and
8 explosions, the DEP should require, at minimum, a one
9 mile setback of oil and gas wells, waste storage
10 facilities and any other infrastructure from the
11 property boundary of any school facility. This
12 setback should also be applied to locations where
13 other vulnerable populations reside, including nursing
14 homes, hospitals, daycare centers and communities at a
15 disproportionate risk of health impacts.

16 We call for --- as well, for ---. We
17 know that through the use of these regulations, that
18 there's a separation of unconventional and the
19 conventional regulations, but we think, once again,
20 that the DEP should require all operators of all wells
21 to use --- to end the use of open-air production pits
22 for the storage of waste and the immediate conversion
23 to closed tanks, and to develop water management plans
24 and to prohibit the road-spreading of brine. Thank
25 you very much.

1 CHAIR:

2 Thank you, Mr. Sooy. Next up is Dan
3 Alters, followed by John Trallo and Stephanie Wissman.

4 MR. ALTERS:

5 My name is Dan Alters. I live at 585
6 Broadway Street in Hughesville, Pennsylvania, 17737.
7 I'm here today commenting on my own behalf, as a
8 citizen of Lycoming County. I have reviewed the most
9 recent draft of the proposed Chapter 78a regulation
10 and I have some comments.

11 The extensive revisions to Chapter 78a
12 are a tremendous improvement over the existing
13 regulations. Significant to me are the following:
14 The protection of critical public resources that exist
15 near gas well development, the requirement to mitigate
16 noise associated with gas well drilling and
17 production, the more restrictive erosion and
18 sedimentation controls and the inclusion of stormwater
19 management requirements, the tighter restrictions on
20 the use of unpermitted pits and other structures for
21 the storage of regulated substances, the improved
22 provisions for containment systems and practices, and
23 well site restoration requirements that are more
24 specific. I applaud the agency and its staff for
25 considering the many comments previously offered and

1 incorporating many of them into this final draft.

2 In my review, I did find a few things I
3 didn't like so well. DEP makes use of electronic
4 filings for well permit applications, centralized tank
5 storage applications and notification of onsite
6 processing, just to name a few things. In addition,
7 DEP also utilizes the terms, quote, on forms provided
8 by the Department, unquote, without specifying whether
9 paper or electronic submissions are involved.

10 The public must have reasonable access
11 to all of the information submitted by a well
12 operator, whether this information is submitted on
13 paper or electronically. How can the public determine
14 what information is available? How does a person
15 conduct a file review of DEP records, determine if all
16 the information is made available to them? Does DEP
17 intend to make electronically-filed information
18 available electronically? Easy and timely access to
19 information by the public is necessary to ensure
20 agency transparency and operator accountability. All
21 of these concerns should be addressed in a final
22 version of these regulations.

23 Section 78a.19 specifies fees for permit
24 applications. These fees are far too low to provide
25 for adequate staff to fully review the complex permits

1 involved, and these fees need to be multiplied by
2 three or four times the values currently proposed.
3 Section 78a.51(c) requires DEP to investigate
4 complaints of domestic water well contamination by a
5 gas well operator, but gives the agency ten days to do
6 so. This is far too much time to initiate an
7 investigation if someone has lost their water. And I
8 recommend that the time be shortened to one or two
9 calendar days.

10 Section 78a.56 authorizes and sets
11 standards for temporary pits that may contain
12 regulated substances, including brines, while 78a.57
13 prohibits the construction of open top structures
14 and phases out existing ones. 78a.57a provides for
15 centralized storage facilities to
16 service multiple well pads. I think these three
17 sections are confusing to operators and the public
18 and clarification is needed. The oil and gas industry
19 has for far too long enjoyed using substandard
20 facilities to store hazardous materials and this
21 practice must stop.

22 Storage of all regulated substances
23 should be prohibited in open top structures or pits,
24 and the storage of regulated substances should be
25 limited to enclosed tanks or structures that are

1 designed and engineered specifically for the storage
2 of those regulated substances. These designs need to
3 be subjected to a rigorous review by DEP prior to any
4 written permit issued. The standard for an oil or gas
5 industry storage facility of regulated substances
6 should be no less stringent than one for any other
7 industrial facility in the State of Pennsylvania.

8 Sections 78a.59a and .59b set certain
9 criteria and requirements for freshwater impoundments.
10 Monitoring of all water placed in such a freshwater
11 impoundment must be required to ensure no water
12 tainted with regulated substances is mixed in with
13 this fresh water. Perhaps sampling of the contents is
14 appropriate. If a well operator desires to mix fresh
15 water with flowback or any of the polluted water, the
16 storage structure must meet every permitting
17 requirement required of a storage structure for
18 regulated substances.

19 Overall I strongly support more
20 stringent regulation of the oil and gas industry and
21 urge these regulations, strengthened in keeping with
22 the above comments, be adopted as soon as possible. I
23 trust that the current administration will also
24 provide DEP with the staff and other resources needed
25 to fully and timely implement these regulations.

1 Thank you for your time and the opportunity to make
2 these comments.

3 CHAIR:

4 Next up is John Trallo.

5 MR. TRALLO:

6 Thank you. My name is John Trallo. I
7 am a resident of Sullivan County, Pennsylvania. I'm
8 also on the Board of Directors of the Pennsylvania
9 Community Rights Network and the National Community
10 Rights Network. Before I begin, I would like to thank
11 you for holding these hearings and giving the people
12 of Pennsylvania a chance to speak and have their voice
13 heard.

14 While I certainly would fully support
15 any measures that can better protect, improve and
16 mitigate the damage this industry has already caused
17 in areas that have already been drilled; however, I
18 cannot, in all good conscience, comment on, or support
19 regulations that will essentially allow the further
20 expansion of this extreme, dangerous and destructive
21 practice that will ultimately put other people and
22 other communities at risk.

23 By approving, or agreeing to establish
24 more regulations is, in fact, a form of consent to
25 allow more harm to our environment, the ecology and to

1 the people who live in the sacrifice zones of shale
2 extraction. The risks are simply too great. Too much
3 damage has already been inflicted on too many people,
4 and I believe it is irresponsible to attempt to
5 regulate any activity when there is no remedy for the
6 most predictable things that can, and do, go wrong.

7 Many communities and grassroots
8 organizations are currently working tirelessly to end
9 the practice of extreme fossil fuel extraction in
10 Pennsylvania and beyond, and for good reason.

11 I consistently hear from our elected
12 officials and regulatory agencies that we must make
13 our decisions based on science. However, they have
14 failed to produce any scientific evidence that
15 suggests this can be done safely, while they continue
16 to ignore the mounting evidence that it can't.

17 If someone could please produce a
18 regulatory model that has successfully worked
19 anywhere, in any state, or anywhere in the world,
20 perhaps Pennsylvania would be able to emulate that
21 model. However, to date, no one has been able to
22 produce that model, and there is no indication that
23 one exists.

24 We are long past the tired, misleading,
25 and worn out oil and gas industry's talking points

1 and propaganda. We know in Pennsylvania, the DEP has
2 publicly admitted to at least 256 documented cases of
3 ground water contamination directly attributed to
4 unconventional shale gas extraction. And there are
5 hundreds more pending. We know that initially seven
6 percent of all well casings will leak, and that over
7 time they all will leak. We know that the waste
8 disposal is going to be an ongoing problem, and that
9 there is no environmentally-safe solution for it.

10 We know we can't undo the damage and the
11 harm that has already been done, but we also know we
12 can prevent it from continuing.

13 The gas isn't going anywhere.
14 Therefore, the only prudent and responsible thing to
15 do would be to allow --- to follow the examples set by
16 Vermont, New York, Maryland, and even more recently
17 parts of Texas and Colorado, and enact moratoriums on
18 all new permits and unconventional drilling operations
19 until independent, comprehensive, environmental and
20 public health studies could be completed, peer
21 reviewed, publicly --- and publicly discussed. Then
22 and only then can we decide what regulations, if any,
23 could be established to protect the environment and
24 ensure public safety. And if it can't, then we need
25 to stop this dangerous, volatile and extreme

1 industrial practice, for the sake of our children and
2 our children's children.

3 After all, at the end of the day, we are
4 human beings, not test subjects. Thank you.

5 CHAIR:

6 Next is Stephanie Wissman.

7 MS. WISSMAN:

8 Good evening. My name is Stephanie
9 Catarino Wissman. I am the Executive Director of the
10 Associated Petroleum Industries of Pennsylvania,
11 located in Harrisburg, 300 North 2nd Street, Suite
12 902, Harrisburg, PA, 17101.

13 Good evening. API-Pennsylvania is a
14 division of the American Petroleum Institute, a
15 national trade association that represents all
16 segments of America's technology-driven oil and
17 natural gas industry. Its more than 625 members
18 provide most of the nation's energy and are backed by
19 a growing grassroots movement of over 25 million
20 Americans. The industry also supports 9.8 million
21 U.S. jobs and 8 percent of the U.S. economy, and since
22 2000 has invested over \$3 trillion in U.S. capital
23 projects to advance all forms of energy, including
24 alternatives. Many of our members, who own and
25 operate conventional and unconventional wells in

1 Pennsylvania have a direct interest in this notice of
2 proposed rulemaking.

3 API is also a standard setting
4 organization. For over 90 years API has led the
5 development of petroleum and petrochemical equipment
6 and operating standards. These standards represent
7 the industry's collective wisdom on everything from
8 drill bits to environmental protection, and embrace
9 proven, sound engineering and operating practices and
10 safe interchangeable equipment and materials for
11 delivery of this important resource to our nation.

12 API maintains more than 650 standards
13 and recommended practices. Many of these are
14 incorporated into the state, federal and international
15 regulations. API encourages and participates in the
16 development of state regulations that provide
17 environmental safeguards and stewardship, and commends
18 DEP on their regulatory oversight program; however, we
19 have concerns with several provisions contained in the
20 draft final rulemaking. As such, we are providing
21 comments on the Advance Notice of Final Rulemaking for
22 Chapters 78 and 78a at the three public hearings.

23 My comment tonight applies to Chapter
24 78a. API-Pennsylvania has numerous additional
25 comments beyond those presented during these public

1 hearings. They will be presented in writing.

2 Section 78a.41, noise mitigation. API
3 has many questions and concerns regarding this
4 section. If this section were to ultimately take
5 effect, questions regarding preemption of local noise
6 control ordinances need to be specifically addressed
7 in the Comment Response Document. As DEP is aware,
8 noise control is already regulated through county and
9 local ordinances. We are unaware of the specific
10 statutory authority upon which DEP relies to trump
11 county or local ordinances, especially in such a
12 subjective manner that singles out one particular
13 industry for noise mitigation oversight. We believe
14 citing the specific statutory authority likewise
15 should be specifically annotated in the Comment
16 Response Document.

17 DEP has stated publically that this
18 section will not be removed from the regulation, and
19 that it requests recommendations from the public on
20 how to implement it in terms of how to measure noise,
21 length of time impacts can occur, and how to determine
22 background noise quality. In light of those
23 statements and in light of the subjective nature of
24 the draft final regulation, we offer the following
25 recommendations:

1 First, DEP should develop, with the
2 input of stakeholders, a manual of best management
3 practices, or BMPs, for noise mitigation and example
4 descriptions of situations under which they could be
5 applied. Second, program Technical Guidance should be
6 developed and vetted through the public comment
7 process to assure that all parties are aware of the
8 nature and intent of DEP in program implementation.
9 Third, DEP should develop and implement an educational
10 outreach program to assist DEP field staff and
11 operators to recognize situations where BMPs should be
12 applied. And fourth, only after the program is shown
13 to be necessary and effective should it be included in
14 the regulations.

15 API will be submitting additional
16 questions and concerns regarding this section in our
17 written comments. We believe that DEP reviews both
18 testimony and written public comments in a serious
19 manner; nevertheless, we request that DEP pay
20 particularly close attention to our written comments
21 regarding this section and respond to our concerns
22 with specific detail in the Comment Response Document.
23 And we urge DEP to take our concerns into account when
24 finalizing its submission to the Independent
25 Regulatory Review Commission.

1 Thank you for the opportunity to testify
2 this evening. API-Pennsylvania and its member
3 companies stand ready to continue to work with DEP on
4 striking that balance between environmental protection
5 and economic development. Thank you.

6 CHAIR:

7 Next three commentators will be Jack
8 Miller, Bryn Hammarstrom and John Augustine. Jack
9 Miller, you are up.

10 MR. MILLER:

11 My name is Jack Miller. I am a resident
12 of Center Township in Snyder County. I am testifying
13 to urge that the strongest possible regulations be
14 placed on the gas industry. I have concluded from all
15 that I have read that fracking cannot be done safely
16 and there should be a moratorium and all new fracking
17 until the industry can demonstrate without question
18 that it can be done safely. Over 400 studies alone
19 have concluded that fracking has human health
20 consequences. It causes pollution of water and air.

21 The first and only duty of the
22 Department of Environmental Protection is the
23 protection of the biosphere and all its inhabitants,
24 including humans. It has no duty to protect the
25 profits of the gas industry. While the industry wants

1 to externalize its cost to the citizens of our state,
2 protecting the environment should be a legal and moral
3 cost of doing business. If the industry cannot do
4 this, then they should not exist.

5 While I would hope that there would be a
6 moratorium on fracking, until that happens we should
7 have the strongest protections possible. The industry
8 in no way should determine what those regulations are.
9 Their only legal obligation is --- to their
10 shareholders is profit, and they pursue profit by
11 dumping their costs on us and the environment. As
12 Barbara Kingsolver has written, global commerce is
13 driven by a single conviction: the inalienable right
14 to earn profit, regardless of the human costs. The
15 carbon extractive industries have proven this again
16 and again. Their cries that the regulations cost too
17 much should fall on deaf ears.

18 I support strong regulations on the gas
19 industry: Operators should be prohibited from open
20 air pits or tanks for the storage and treatment of any
21 regulated wastes. They are known to leak. This
22 should be applicable regardless of the size or
23 location. These regulations should apply to all
24 drillers, including conventional drillers.

25 All waste impoundments must be properly

1 closed immediately on the effective date of the
2 regulation. Because of all the potential risks
3 involved with all oil and gas wells, waste storage
4 facilities and other infrastructure, there should be a
5 minimum setback of one mile from any school property.
6 The current setbacks are insufficient.

7 All abandoned and orphaned wells must be
8 identified before site construction, well construction
9 and the beginning of drilling. Conventional drillers
10 must also develop waste management plans. All gas
11 operations require large volumes of water and there is
12 no logical reason why conventional drillers should not
13 be required to plan and document water use.

14 Because Brine contains harmful chemicals
15 and salts, it should not be used as a de-icer or a
16 dust suppressant regardless of the type of drilling.

17 All those who have had their --- all
18 those --- excuse me. All those who have had their
19 water supplies affected by drilling should have clean,
20 potable water supplied immediately.

21 Noise controls should be required.
22 People living near well pads should not have their
23 quality of life deleteriously affected so that others
24 can profit.

25 DEP should require all permit

1 applications of the gas and oil industry to be filed
2 electronically. These applications should be made
3 available on DEP's website on the day the application
4 is deemed to be complete.

5 Again, protecting the environment should
6 be the only duty of the Department of Environmental
7 Protection if its name is not to me meaningless. It
8 is the duty of the State of Pennsylvania, under
9 Article I, Section 27 of the Pennsylvania
10 Constitution. Thank you.

11 CHAIR:

12 Next up, we have Bryn Hammarstrom?

13 MR. HAMMARSTROM:

14 Thank you. Bryn Hammarstrom, 39 Chatham
15 Valley Lane, Middlebury Center, Chatham Township,
16 Tioga County, Pennsylvania. My notes are rough. I
17 will not be providing a copy of them, but I will
18 e-mail them to whatever address is provided.
19 Hopefully, it's in this brochure, the e-mail address
20 for comments?

21 CHAIR:

22 Yes.

23 MR. HAMMARSTROM:

24 Okay. So, I have not read through the
25 whole Chapter 78 --- 78a. I want to make some ---

1 state some main concerns.

2 I'm an RN. I'm also Vice President and
3 Treasurer of the Pine Creek Headwaters Protection
4 Group in Wellsboro. But this is an oral statement. I
5 believe the group will be submitting a statement on
6 its own behalf.

7 My main concerns are the drilling
8 return, the drilling return, its quality and its
9 eventual disposal and/or reuse. Number two, the
10 onsite storage facilities for this return, mud or
11 consolidated water fluid. And three, air quality
12 issues. On air quality, these regulations are pre-
13 fracking. I realize these have to do with well
14 drilling itself, with the mounting evidence of
15 respiratory distress near frack sites, which increases
16 the closer one lives to a well pad. Obviously mandate
17 greater distances from population concentrations,
18 whenever a well pad is allowed, particularly those
19 which eventually may be horizontally fractured.

20 On number one, the drilling water
21 return, I strongly object to any permission --- or
22 permission or allowance for any continued ground pit
23 storage --- above ground storage for any solid, fluid
24 or mixture thereof. For the safety of both our
25 communities and our water, drilling returns must be

1 contained, enclosed, in leakproof containers.

2 The DEP has a basic obligation, under
3 the Pennsylvania Constitution, to guarantee citizens
4 of the Commonwealth both clean air and clean water.
5 The oil and gas industry, despite their polished
6 presentation by the woman from API, has enjoyed an
7 exemption from U.S. Clean Air and U.S. Clean Water
8 Acts, the Halliburton exemption, pushed through by
9 Halliburton Executive, Dick Cheney, and the fact that
10 the industry willingly uses that loophole shows that
11 the industry is completely unwilling to guarantee
12 human health to maximize its profits. Thank you.

13 CHAIR:

14 Next we have John Augustine?

15 MR. AUGUSTINE:

16 Good evening. I am John Augustine,
17 Community Outreach Manager in Eastern Pennsylvania for
18 the Marcellus Shale Coalition, located at 24 Summit
19 Park Drive in Pittsburgh, PA.

20 Our association works with regional
21 partners since 2008 and is currently comprised of
22 nearly 250 exploration and production, midstream and
23 service companies. In 2014 our members were
24 responsible for 96 percent of the natural gas produced
25 here in Pennsylvania.

1 Responsible shale development has been
2 among the most transformative turning points in our
3 Commonwealth's history. And indeed, natural gas
4 development can serve to enhance and improve our
5 natural resources.

6 Significant investments have been made
7 across the Commonwealth by our industry to provide a
8 needed habitat and restore lands and watersheds.
9 Partnerships with conservation groups are examples of
10 our industry's willingness and commitment to
11 voluntarily protect and preserve our natural
12 resources. In fact, more than 33,000 acres were added
13 to the state forest system thanks to revenues from
14 shale development which assisted in the ability of
15 DCNR to obtain this additional acreage.

16 And our industry has raised the bar for
17 shale development further with practices designed
18 specifically to lessen the impact on surface
19 disturbance and provide strategies to improve habitat
20 and landscapes.

21 The benefits do not end there. Take,
22 for example, the fact that the Commonwealth accounts
23 for over 25 percent of the nation's natural gas
24 production in recent months, according to the EIA.

25 This has led to more revenue. The

1 natural gas industry has paid over \$2.4 billion in
2 taxes since 2008 and \$850,000,000 over four years to
3 communities, counties and the state in impact taxes.
4 More than 200,000 new hires in Pennsylvania are
5 supported by industries associated with shale
6 development, like our friends in organized labor.
7 And despite the rhetoric, these are, myself included,
8 lifelong, tax-paying residents of the great
9 Commonwealth.

10 In addition, there is a great cost
11 reduction in residential fuel. My monthly budget for
12 natural gas, which I use to cook with, heat my water
13 with, and most importantly, heat my home, is \$70 a
14 month. That is a \$1,800 per year savings for senior
15 citizens and those with lower incomes.

16 Natural gas is a clean burning fuel
17 source, accounting for nearly 25 percent of our
18 electric generation supply and heating homes of over
19 5,000,000 Pennsylvanians and half of the United
20 States. It has contributed to improved air quality in
21 Pennsylvania as well. And thanks to natural gas, U.S.
22 CO2 emissions are at a 20 year low. And according to
23 the EPA, the toxic air pollutants across the Mid-
24 Atlantic region are down nearly 14 percent.

25 These benefits, unfortunately, are at

1 risk. Pennsylvania has a complex regulatory
2 environment and an uncertain fiscal future. These two
3 issues have made doing business in Pennsylvania very
4 difficult. Pennsylvania already has world class
5 environmental regulations that have been a model for
6 states across the nation. These regulations have been
7 reviewed and praised by the independent STRONGER
8 board, a national nonprofit organization. And for
9 that we applaud both the General Assembly and the
10 Pennsylvania DEP.

11 With these powerful regulations already
12 in place, and billions paid in taxes, we need to firm
13 up the uncertainty to do business in this great
14 Commonwealth.

15 At the same time, many of the DEP's
16 proposed regulatory changes to Chapter 78 stretch
17 beyond legislative intent and will undercut the
18 Commonwealth's ability to compete for capital, while
19 providing little or no additional benefit with regard
20 to safe and secure oil and gas development and
21 threaten Pennsylvania jobs and low energy prices.

22 We are, therefore, very concerned about
23 regulations which seek to hold the natural gas
24 industry to different standards than any other
25 industry; that seek to impose vague and inconsistent

1 standards; which exceed the authority granted to the
2 Department by the General Assembly and the courts of
3 Pennsylvania. And which place Pennsylvania businesses
4 at a competitive disadvantage without a commensurate
5 environmental benefit to our communities or natural
6 resources.

7 Our overarching message is
8 straightforward: PA should be a world leader in
9 producing safe and responsible clean energy. So
10 instead of undermining the strong, consistent and
11 predictable regulatory framework that already exists,
12 we should work cooperatively to revise these proposals
13 to maintain a balance between strong environmental
14 protection and a competitive economic climate. It
15 does not need to be a false choice between the two,
16 and we urge the DEP to continue working with our
17 industry and stakeholders across the Commonwealth on a
18 reasonable, competitive path forward.

19 Please don't set our economy backwards,
20 and threaten good paying jobs and affordable energy
21 for all Pennsylvanians. Thank you.

22 CHAIR:

23 Our next three witnesses will be Deb
24 Nardone, Audrey Gozdiskowski and Beth Powell. Deb
25 Nardone?

1 MS. NARDONE:

2 Good evening. Thank you for the
3 opportunity to provide comments on Pennsylvania's
4 Chapter 78 rules. My name is Deborah Nardone. I'm a
5 resident of Centre County. I'm here representing the
6 Sierra Club, where I serve as the Sierra Club's
7 Associate Director for our campaign called Keeping
8 Dirty Fuels in the Ground.

9 It is important and it's clear to
10 understand that fracking has an inherently
11 dangerous --- it is an inherently dangerous process.
12 It is occurring in Pennsylvania with inadequate
13 regulations and enforcement, while harming public
14 health in Pennsylvania in many instances and
15 communities that I work with all over the country. I
16 do welcome the improvements to this new draft of the
17 Chapter 78 rules proposed by the Pennsylvania DEP.
18 And it is imperative that the DEP step up and be
19 willing to address the numerous pollution problems
20 that have resulted from this highly industrial process
21 that's occurring in thousands of people's backyards
22 all across the country.

23 In 2014, the Pennsylvania DEP found that
24 there were 243 private drinking water wells that had
25 been contaminated by the drilling and fracking

1 process. And these are just the cases that we know
2 about, where landowners have not been gagged by
3 industry lawyers, from allowing to have these records
4 be publically accessible. And many of the times these
5 people are gagged so that they can have their
6 personal, private water wells reinstated or restored.

7 And so if you were to travel to Dimock,
8 Pennsylvania, or many other places across the state,
9 you would see that residents still don't have potable
10 drinking water. And so, as, you know, people are
11 worried about energy supply prices, as people are
12 worried about good, clean energy and the kinds of jobs
13 that are created by clean energy, not more dirty
14 fossil fuels, there are still communities and
15 residents around the state that don't have potable
16 water, because the impacts fracking have had in their
17 community. And to me this is outrageous and
18 inexcusable.

19 So just a few weeks ago Pennsylvania DEP
20 also announced that records from the --- from 2013
21 show increases in emissions and contaminants from
22 fracking and associated infrastructure. Toxic levels
23 of things like sulfur dioxide, known to cause
24 respiratory problems like asthma, have increased 57
25 percent in one year. And this is at the state's

1 production sites. And while air quality is improving
2 across the country and in Pennsylvania, due to the
3 decline in use of other dirty fossil fuels,
4 Pennsylvania shale gas emissions have continued to
5 increase.

6 So it's apparent that it's time to reign
7 in the rogue oil and gas industry in Pennsylvania.
8 And there are smart decisions (sic) across the country
9 that have taken the time to assess the impacts of
10 fracking before allowing it to happen in people's
11 backyards. Maryland's Governor is about to sign a
12 two-and-a-half year moratorium on shale gas
13 development. This process has been banned entirely in
14 places like New York and Vermont, due to significant
15 concern over the long-term public health impacts that
16 come along with fracking.

17 So while the best place for dirty fossil
18 fuels is to keep them in the ground, including fracked
19 gas, I applaud the DEP for taking some important steps
20 to better protect public health and the environment.
21 Until we have the political power to end this dirty
22 process altogether, it's urgent that the DEP quickly
23 adopts very strong rules, along with making some
24 needed improvements, as I've outlined in my submitted
25 written comments.

1 Some of these improvements include:

2 Adoption of no open pits or tanks for storage or
3 treatment of wastes. All tanks should have proper
4 lids and emission reduction technology installed.

5 A mandatory one mile setback of all new
6 wells, waste storage facilities and other
7 downstream infrastructure for the production or
8 transport of dirty fracked gas from schools,
9 playgrounds, daycares, hospitals, in order to protect
10 the public health of our children and at-risk
11 populations.

12 Industry must also identify, plug and
13 seal abandoned and orphaned wells prior to allowing
14 new construction or drilling.

15 DEP should require all oil and gas
16 development, whether conventional or unconventional,
17 to comply with these rules.

18 And last, DEP must prohibit the land
19 application or surface spraying of brine or other oil
20 and gas production wastes.

21 Additionally, after these important
22 recommendations are adopted by the Pennsylvania DEP, I
23 urge the DEP to further engage on implementing many
24 other public health protections, which include,
25 rigorous methane control requirements at the well head

1 and for associated downstream infrastructure, such as
2 compressor stations.

3 We urge the Wolf Administration, the
4 Pennsylvania DEP and the Department of Health to fund
5 and conduct a rigorous public health study that
6 identifies what the impacts are of fracking on public
7 health. And that all public lands, and including the
8 Delaware River Basin, should continue to remain off
9 limits to drilling until the public health study can
10 be done, and can determine whether fracking can be
11 done safely or not in Pennsylvania. Thank you again
12 for the opportunity to provide comments.

13 CHAIR:

14 Next, we have Audrey Gozdiskowski? We
15 have Beth Powell?

16 MS. POWELL:

17 I'm Beth Powell. I'm speaking on behalf
18 of New Pig Energy, which is located at 201 Jefferson
19 Avenue, Tyrone, Pennsylvania.

20 My name is Beth Powell. I am a ninth-
21 generation rural Pennsylvanian who lives in Centre
22 County. I have a chemical engineering degree and an
23 MBA from Penn State. And I work for a Pennsylvania-
24 based company, called New Pig Energy, which is a
25 wholly-owned subsidiary of New Pig Corporation, which

1 is based in Tipton, Pennsylvania.

2 New Pig Corporation employs 350
3 Pennsylvanians and New Pig Energy employs 32. Our
4 parent company is a world leader in liquid secondary
5 containment for more than 30 years, and it provides
6 leak and spill products to over 200,000 industrial
7 sites in 70 countries.

8 My company, where I'm the Vice President
9 and General Manager, was spun off of New Pig in 2013
10 and it's dedicated to helping oil and gas operators
11 protect streams and surface water. We provide
12 secondary containment for drilling and hydraulic
13 fracturing throughout the United States and overseas.
14 And secondary containment is an impermeable barrier
15 designed to prevent releases into the environment.
16 Basically it's a safeguarding method if the original
17 container fails.

18 And I would like to make five points in
19 this testimony. The first point is: Pennsylvania has
20 the toughest secondary-containment regulations of any
21 state for oil and gas. Other states rely on the
22 federal Spill Prevention, Control, and Countermeasure
23 rule, also known as SPCC, for the regulation of oil.
24 Beyond oil, Pennsylvania DEP also requires secondary
25 containment for flowback water, a decision unique to

1 Pennsylvania.

2 Second point: According to Pennsylvania
3 regulations, a spill occurs when oil or flowback makes
4 contact with soil. At the federal level, which the
5 other states regulate against, a spill occurs when oil
6 makes contact with water. This is one of the reasons
7 that the state violation rate was so high a few years
8 ago. Operators either reported all spills to soil or
9 all spills five gallons or greater, no matter where
10 they occurred. And they still do, but the sites are
11 now in secondary containment to prevent contact with
12 soil.

13 The third point: Chapter 78a draft is
14 confusing in regards to primary containment versus
15 secondary containment, since the general term
16 containment is used for both. Aboveground storage
17 structures, mud tanks, open tanks are all primary
18 containment. Secondary containment is the
19 safeguarding around the primary containment. And I
20 have included proposed clarifications in the written
21 copy that I dropped in the box. They affect 56, 57,
22 58, 64, 64a, 65 and 66.

23 Fourth point: New Pig Energy's business
24 relies on helping operators comply with regulations.
25 This puts us in a unique position. Increased

1 regulation provides opportunities for new products and
2 new customers. But too much regulation, however, and
3 our customer base moves out of Pennsylvania. Having
4 worked with our parent company in a number of diverse
5 industries, such as electric utilities, manufacturing,
6 powerwashing, and pharmaceuticals, oil and gas
7 operators are not bad actors. They are just another
8 industry where spills sometimes occur due to handling
9 large quantities of liquids.

10 Fifth point: I would like to thank the
11 Pennsylvania Department of Environmental Protection
12 for accepting a number of comments on the last round
13 of review. Establishing chemical compatibility for
14 temporary secondary containment at 72 hours allows
15 time for cleanup, but keeps material costs under
16 control. Allowing operators to test rainwater for
17 release, which is the requirement for all other
18 industries in the state, allows secondary containment
19 systems to be utilized through numerous stages without
20 having to be landfilled.

21 In conclusion, regulations are needed.
22 Businesses, jobs and opportunities are also needed.
23 It is not easy bringing the two together, but the oil
24 and gas industry has made tremendous strides in the
25 last four years. Thank you.

1 CHAIR:

2 Our next three witnesses are Paul Hart,
3 John Stewart and Tyler Martin. Paul Hart?

4 MR. HART:

5 My name is Paul Hart. I reside at 754
6 Nibert Road, Indiana, Pennsylvania. I'm making these
7 comments primarily personal. Any additional comments
8 on behalf of my business will be in more detail in the
9 future.

10 I have been providing water treatment
11 services for the oil and gas --- and natural gas
12 industry for 30 years. I attended Lycoming College
13 and my wife grew up here in the Williamsport area. I
14 own two farms in Pennsylvania that have natural gas
15 wells on them. I also have water wells on my property
16 for domestic water. All this means is I am local, I
17 have experience, and I know firsthand the impact oil
18 and natural gas development has. In my experience, on
19 my property, it does not hurt the land, the air or the
20 water, if, and I repeat if, the existing laws are
21 enforced.

22 I am a part owner of Fluid Recovery
23 Services. We have four water treatment facilities in
24 Pennsylvania. We have been in business for decades
25 prior to the Marcellus development, because the energy

1 industry needs to manage water, and because we have
2 reasonable permits from the state that determine how
3 we manage that water. We have continuously made
4 changes to our process and services over the years, to
5 ensure we are compliant with our permits while still
6 providing a good service for our customers. We have
7 effectively treated over one billion gallons of water
8 in the last 30 years, allowing Pennsylvania resources
9 to be developed and delivered to all of us in this
10 room to heat our homes and power our lives.

11 FRS employs 32 full time, and has a goal
12 to renew our permits and install new technology to
13 meet the current 500 Total Dissolved Solids
14 requirements implemented a couple years ago. It
15 should be noted that only the natural gas industry is
16 held to this standard in Pennsylvania and all other
17 discharges in Pennsylvania do not have to meet this
18 same high standard. In order for us to invest in new
19 technologies, we need cooperation with the state. The
20 new technology is very expensive and takes over a year
21 to design, manufacture and install. To make this
22 investment, we also need a healthy industry, able to
23 afford the higher costs associated with the higher
24 quality treatment.

25 The Chapter 78 Final Rulemaking, if

1 implemented, as currently written, will have little or
2 no benefit to the Commonwealth, but it will risk
3 ongoing investment in the Pennsylvania oil and gas
4 industry and will cause the loss of jobs.

5 In 2013, DEP did not include most of the
6 recommendations from the Technical Advisory Board.
7 Any revisions to Chapter 78 should include
8 recommendations from the Technical Advisory Board, and
9 the newly formed Conventional Oil and Gas Advisory
10 Committee. The State should continue to abide by due
11 process, as it followed in the past, by involving all
12 stakeholders and by engaging this Conventional Oil and
13 Gas Advisory Committee. The Chapter 78 Final
14 Rulemaking should not be rushed, otherwise we risk the
15 loss of both new energy production and the
16 Pennsylvania-based service companies that depend on a
17 healthy oil and gas industry.

18 The economic challenge the industry is
19 currently experiencing, due to extremely low prices
20 for oil and natural gas, should be factored in.
21 Drilling is at a record low. Hundreds of industry
22 staff are being laid off. Many of them are my
23 friends. And I have personally talked to numerous
24 ones who have left or are planning to leave, one just
25 a week ago, in my office, saying that he had to take

1 his family to another state to find a
2 family-sustaining job, due in large part to the
3 uncertainty associated with today's policy climate in
4 Pennsylvania.

5 The state must make a full technical and
6 economic evaluation to justify the benefit of
7 additional requirements before causing additional
8 economic hardship. The state must consider the impact
9 to small business, instead of amending the regulations
10 in a vacuum. Thank you for this opportunity to
11 comment.

12 CHAIR:

13 Next up, John Stewart?

14 MR. STEWART:

15 Good evening. My name is John Stewart.
16 I am the owner and President of a locally owned
17 resource company located at 796 Jackson Avenue in
18 Warren, Pennsylvania, 16365. My degree is in Physical
19 Geology. I am a 26-year-old resident of Northwestern
20 Pennsylvania, where I work full time for a locally
21 owned and operated conventional oil and gas well
22 production company. In my spare time, I also operate
23 my own conventional oil and gas well production
24 company, which I started three years ago, consisting
25 of 19 wells, myself, and one part-time employee, and

1 from which I draw no salary. It is a true labor of
2 love.

3 As I previously stated in testimony
4 provided at a public hearing regarding the 2013
5 version of these regulations, what the DEP proposes is
6 far out of context with what is necessary for our
7 industry. In fact, although required to by law, the
8 DEP completely fails to provide a statement of need
9 for new regulations for the conventional industry.
10 Without conducting a careful analysis of research,
11 documentation and data on the industry in order to
12 provide this required statement, showing a necessity
13 for new regulatory power, how can the DEP even expect
14 to come close to proposing meaningful regulations?

15 In addition to the failure to provide an
16 analysis of the need for regulatory change, the DEP
17 also fails to fulfill another requirement of the law,
18 which is special consideration for small businesses.
19 According to the Pennsylvania Small Business Act,
20 before new regulations can be imposed, they must be
21 analyzed specifically for the effect they will have on
22 small businesses. The Act states that small
23 businesses bear a disproportionate share of regulatory
24 costs and burdens, and that agencies should seek to
25 achieve statutory goals as effectively and efficiently

1 as possible without imposing unnecessary burdens on
2 small businesses.

3 The DEP has not offered any special
4 consideration for small businesses in the form of
5 alternative, more relaxed performance standards, or
6 otherwise. In addition to their impact on small
7 businesses, such special considerations are meant to
8 be analyzed for their ability to remain true to the
9 stated objective of the proposed regulations. Again,
10 how can the DEP expect to analyze the effectiveness of
11 considerations for small businesses, when it has
12 already failed to state the necessity and objective of
13 new regulations?

14 Despite widespread testimony describing
15 the multitude of ways that the 2013 proposed
16 regulations were wildly out of context for the
17 conventional industry, these 2015 revisions are in
18 many cases even further from the land of practicality.
19 For instance, the new requirement that drill sites be
20 returned to original contours does not make any sense
21 for our industry. We drill well sites on slopes where
22 the contours absolutely must be changed in order to
23 have flat ground to operate on. With perhaps the
24 exception of sites that were originally flat or very
25 nearly flat, not only will this requirement be

1 extremely costly, it will in many instances be simply
2 unattainable.

3 As another example, the new requirement
4 for site-specific PPC plans is out of touch for an
5 industry which is composed of hundreds of thousands of
6 highly similar sites producing and storing small
7 amounts of the same materials. Under existing
8 regulation, the lack of variation between sites has
9 allowed for the efficient use of generic PPC plans
10 containing the pertinent information required in case
11 of emergency. What advantage will site-specific PPC
12 plans provide when individual sites are virtually
13 identical? As with many other examples which I could
14 list, the DEP fails to consider the enormous cost of
15 implementing such regulations, while simultaneously
16 failing to demonstrate the benefit.

17 With all of these failures, the lack of
18 demonstration of necessity for new regulations, lack
19 of consideration for small businesses, and lack of
20 cost versus benefit analyses, how can I hope for
21 anything but failure from these proposed regulations?
22 When it comes to conventional oil and gas, all the DEP
23 has demonstrated is disregard for proper procedure and
24 an unwillingness to consider the operational
25 practicalities of a long-established industry. I ask

1 the DEP to regulate my job and my business, not
2 destroy them. Thank you.

3 CHAIR:

4 Next, we have Tyler Martin.

5 MR. MARTIN:

6 Good evening. Tyler Martin, 126 Red Fox
7 Lane, Russell, Pennsylvania, 16345, Warren County.

8 I'd like to speak to section 78.65. It
9 contains many new provisions, among these the
10 site-restoration provision would now require
11 compliance with the Post Construction Stormwater
12 Management provisions found at section 102.8(g). The
13 stormwater analysis and construction that would be
14 required are expensive and complex. These
15 requirements are traditionally associated with larger
16 construction such as a Wal-Mart parking lot.
17 In the past, the timber industry and the conventional
18 oil and gas industry have not been included in the
19 requirement because of their small footprint.

20 I can understand why the proposed
21 regulations would call upon Pennsylvania's new
22 unconventional industry to comply with this stormwater
23 analysis obligation. A typical Marcellus pad and
24 access facilities are more than five acres in size and
25 are usually constructed of impervious materials.

1 However, conventional oil and gas sites are much
2 different. They are only 2 to 3 percent the size of
3 Marcellus facilities. And nearly all of the
4 conventional area achieves a vegetative state, thus
5 making it quite different than the impervious area at
6 a Marcellus facility.

7 I was at Thursday's hearing in Warren,
8 and I was shocked to hear some of the numbers from the
9 cost estimate to comply with the stormwater
10 requirement. I obtained a copy of the cost estimate.
11 I want to quote some numbers from it:

12 Engineering services to prepare PCSM
13 Plan alone ranges from \$10,000 to \$15,000.
14 Engineering services for NPDES permit application,
15 \$2,000 to \$5,000. Construction cost for stormwater
16 BMPs, \$10,000 to \$50,000. The total cost for a new
17 conventional well ranges between \$20,000 and ---
18 \$20,000 and \$70,000.

19 To put that into perspective, the
20 current total cost for a new conventional well site is
21 a little over \$100,000. The new stormwater cost,
22 ranging between \$20,000 and \$70,000, would be an
23 increase of 20 to 70 percent for a new conventional
24 well. A 20 to 70 percent increase would be a
25 staggering number to any industry's bottom line. But

1 the conventional industry is already struggling under
2 the cost of added regulations and lower commodity
3 prices. New conventional wells in Pennsylvania have
4 been dropping for several years, from 5,000 new wells
5 in 2008 to less than a thousand wells last year.

6 The new cost of \$20,000 to \$70,000 for
7 stormwater analysis and construction is especially
8 troubling since there is no justification for the
9 increased stormwater regulations on the conventional
10 industry. In fact, I want to testify about the
11 Allegheny National Forest. There are about 12,000
12 conventional wells in production on the Allegheny, and
13 the national forest makes an excellent laboratory to
14 study the impact of conventional oil and gas
15 operations on stormwater. In 2007 the Forest Service
16 characterized the water quality on the ANF as among
17 the highest in the state. In November 2014, the
18 Forest Service released five year Monitoring and
19 Evaluation Report for the period from 2008 through
20 2013. It focuses on oil and gas development and
21 concludes that the majority of the streams on the ANF
22 are meeting state water quality standards. Of the
23 2,126 miles of mapped streams within the ANF, 72
24 percent are rated high quality or exceptional value
25 streams for water quality. The report concluded that

1 these macroinvertebrate studies did not detect a
2 negative impact to water quality from this
3 development.

4 In contrast the DEP has not stated any
5 need for imposing the stormwater and construction
6 requirements. Where is the DEP's study? How does the
7 DEP answer the finding of excellent water quality
8 contained in the Allegheny National Forest study?

9 I decided to make the 3 hour drive to
10 Williamsport because the financial information about
11 the new stormwater requirement is so compelling.
12 Right now, with the current price of oil and gas,
13 there is virtually no conventional well drilling in
14 Pennsylvania. And if prices return to a higher level,
15 there will still be no new conventional drilling if
16 the new regulations are adopted. The stormwater
17 analysis and construction provision alone will prevent
18 new conventional well drilling.

19 But the stormwater provision is only one
20 part of the story. The proposed conventional
21 regulations would impose tens of millions of cost for
22 several other sections. The total new costs are
23 hundreds of millions of dollars on small business ---
24 a small industry that only generated a few hundred
25 million dollars per year. The scope of the new

1 regulations is grossly out of balance with the scope
2 of the conventional industries.

3 I know about that scope. At Slippery
4 Rock University I studied Geographical Information
5 Technology and Environmental Geoscience. I chose that
6 career because I care about water quality, sound
7 management of trees and wildlife.

8 I urge the EQB to vote no, and for the
9 DEP to start a new and truly separate process for
10 conventional regulations.

11 CHAIR:

12 Our next three commentators this evening
13 are Gary Metzger, Tammy Bonnice and Robert Deering.
14 Gary Metzger?

15 MR. METZGER:

16 Good evening. My name is Gary Metzger.
17 I'm a lifelong resident of Lycoming County. I live at
18 315 Mountain Brook Lane, Montoursville, Pennsylvania,
19 17754.

20 I'm here to offer testimony this evening
21 on behalf of the Lycoming Audubon Society. Our Board
22 of Directors voted unanimously to have me testify on
23 behalf of our 425 members in Clinton and Lycoming
24 Counties.

25 I have reviewed the revisions to 78a

1 regarding nonconventional wells in the Commonwealth,
2 the new standards and almost uniformly they represent
3 an improvement on the existing ways of governing this
4 industry. We, Lycoming Audubon, recommend that DEP
5 adopt, as part of the rulemaking, this package of 78a
6 revisions. If rerevisions were necessary, they should
7 enhance the requirements and protections, not lessen
8 them.

9 We here in Lycoming County and in
10 Clinton County, we live in the very heart of the
11 Marcellus gas. You can't throw a stone without
12 hitting someone who has some kind of horror story
13 about the gas industry or has some newspaper article
14 about a problem with contamination resulting from the
15 industry. I think the industry is here to stay. I
16 think that it needs better regulations. And I think
17 these regulations take a step in that direction.

18 There was a recent article in the
19 Sun-Gazette. It had to do with a study that USGS and
20 Penn State had just done on a stream near Hughesville,
21 Pennsylvania. They found methane in the stream, in
22 measurable quantities. It turns out that methane came
23 from a well drilled three years ago, by Range
24 Resources. The methane contaminated five drinking
25 water wells and migrated through that water into the

1 stream. So we have toxic methane, a flammable,
2 explosive chemical in the stream, in our atmosphere
3 and no remediation in sight. It seems that that kind
4 of occurrence indicates that the industry's practices
5 are not totally accurate and that we need better regs
6 to prevent this kind of thing from happening, or to
7 remediate instances when it does happen.

8 I'll mention a few of the things ---.
9 I'll mention a few of the things that I really like
10 about the new regulatory package. The requirement for
11 noise mitigation. I and my wife live eight-tenths of
12 a mile from a drill pad in Upper Fairfield Township.
13 At eight-tenths of a mile, the noise during the
14 drilling, fracking and flaring operation was
15 considerable. It was unbelievable, really, to us. We
16 have neighbors who live much closer to well pads and
17 it is a window-shaking, wall-rattling experience, that
18 they go through. So some noise mitigation is a good
19 thing.

20 There are better and more specific
21 requirements regarding affected water supplies. Those
22 supplies under the new regs have to be replaced in
23 kind. And the new regs establish deadlines for the
24 industry to notify DEP of a problem and for DEP to
25 investigate. There's a requirement that the industry

1 do more to identify old, orphaned, abandoned wells.
2 Near the vertical drill sites and along the course of
3 the horizontal bore of the new wells. These old wells
4 have found to be sources of problems with gas
5 mitigation and other instances. Identifying them
6 beforehand is a good thing.

7 There are better stormwater management
8 and E and S controls required. Good thing. Open pits
9 on individual drill sites, as was mentioned before,
10 would be a thing of the past. A good thing. Those
11 open pits leak. They are not safe for wildlife or for
12 humans. There are better requirements for the
13 containment structures, for toxic drill materials and
14 flowback materials at centralized drilling sites and
15 those are very good things.

16 I have several additional items that I'm
17 recommending that were in my written comments. Let me
18 just finish with one last comment. Thank you. Our
19 presumption is that DEP will see fit to maintain
20 adequate staffing levels, to see that whatever regs
21 are in place to adequately implement them and enforce
22 them. So thanks for the opportunity to come.

23 CHAIR:

24 Next is Tammy Bonniece?

25 MS. BONNICE:

1 Hi, I'm Tammy Bonnice. I live in
2 Montrose, Pennsylvania, 18801. I am a mother and
3 President of the Montrose Chamber. Born and raised in
4 a small town in Susquehanna County.

5 I'm speaking on behalf of two important
6 parts of my life, my children and my community. I can
7 tell you the same things that you have read and you
8 have heard tonight. Well over 20,000 (sic) jobs have
9 been created in Pennsylvania. We now produce over 25
10 percent of the United States' natural gas supply.
11 Which in turn lessened our dependency on foreign
12 countries' energy. Natural gas is a clean burning
13 fuel. It has improved our air quality. Over \$2.3
14 billion in additional tax revenue has been generated
15 by shale development. I can read facts and statistics
16 all day on how the production of natural gas is
17 beneficial. But let me now tell you how it affects me
18 as a parent and a community leader.

19 As a parent, we want our children to
20 have the opportunity to stay in our area. If they
21 choose another corner of the world to call home, that
22 is fine. But with the production of natural gas,
23 great opportunity has been given to our next
24 generation. As a mother of two boys, one stayed in
25 the area and one didn't. The oldest one who stayed

1 local owns a bluestone quarry that produces bluestone.
2 He is able to support his family because of the
3 industry indirectly buying his products. My youngest
4 son went on to further his education and became an
5 engineer. But because of the gas industry and the
6 summer internship that he was offered, he graduated
7 with little debt and has a job with a very promising
8 future in a field that continues to grow. Because of
9 the gas industry our children and our grandchildren
10 can choose their own future.

11 I am the President of the Montrose
12 Chamber, a board member of the Wyoming County Chamber,
13 a very active committee member of many, many nonprofit
14 organizations located in both counties. I have lived
15 in this area my entire life. I actually grew up on a
16 farm in Susquehanna County ---. That is my home. And
17 this is my investment. And I am very excited about
18 the opportunity that natural gas brings to this
19 region. I have seen many different trends of income,
20 farming, stone quarry and now the gas industry.

21 I've seen a lot of hard times for many,
22 many, many residents. I've seen people sell off parts
23 of their family farms because the milk check is a lot
24 smaller than their feed bill. Family-owned stores
25 going out of business because of the lack of consumer

1 spending. People living paycheck to paycheck and
2 trying to make ends meet. Parents taking out huge
3 student loans to give their children the education and
4 opportunity that they didn't have.

5 Because then --- but then the Marcellus
6 Shale development began in the northeast and
7 production of natural gas became part of the everyday
8 lifestyle and economic growth for the natural gas
9 production has translated into increased income for
10 families and local businesses. Both the nonprofit and
11 the profit world have benefited from this industry in
12 our area. Family farms are now running full force and
13 being passed down from generation to generation.
14 Families are taking vacations together. Residents are
15 more involved in the community and donating time and
16 money to nonprofits. The privately-owned trucks that
17 used to work --- are working year round, not just
18 seasonal, and many increasing their fleets to build
19 well pads.

20 There has been over \$800 million in
21 impact taxes distributed to local communities and
22 environmental programs, and over \$2.2 (sic) billion in
23 additional tax revenues that has generated by shale
24 development.

25 Pennsylvania already has regulations in

1 place. These regulations have been reviewed by the
2 State Review of Oil and Natural Gas Environmental
3 Regulations board. The changes to Chapter 8 --- 78
4 are targeting now only the oil and gas industry. Why
5 single out just one industry? And because of this,
6 Pennsylvania will become less competitive with other
7 shale basins. This would be devastating in
8 Pennsylvania, which has experienced an impressive
9 economic growth.

10 So as a mother, a resident, a community
11 leader, I strongly suggest that you reconsider the
12 changes to Chapter 78. The natural gas industry is a
13 positive force for our environment, our economy and
14 the future of Pennsylvania.

15 CHAIR:

16 Next is Robert Deering?

17 MR. DEERING:

18 I'm going to put this in a little bit
19 different perspective than the last person. I live in
20 the midst of gas drilling. I live on Pine Creek
21 Valley, at the top of Okome Mountain. Most people
22 deal with only one or several well pads at a location.
23 However, the permitting process on state forest and
24 state game lands seems to be different. There are
25 many well pads, wells, retention ponds, collector

1 pipelines, access roads, and now compressor sites in
2 one area. The conversion of ground use and water use
3 in our area is unprecedented in my lifetime.

4 There are three coffer dams in Pine
5 Creek, with two more approved, within about a six mile
6 range. This used to be a recreation area. All the
7 ground in this area was classified as forest reserve.
8 Now it's nothing more than an industrial site on top
9 of a mountain. As of today, we have 12 well pads with
10 a hundred wells, four 15,000,000 gallon freshwater
11 ponds, an open pit used flowback storage pond, a truck
12 and equipment storage area, and miles and miles of
13 collector pipelines and access roads. This is just on
14 state forest ground, which borders my house to the
15 south side. Now they're starting on the north side.
16 Where was or is the cumulative analysis of the issues
17 of this much development and pollution on untouched
18 forested ground and headwater streams?

19 One of the concerns is noise. If the
20 well sites were located at greater distances from
21 residents, or in my case, mostly hunting camps, the
22 noise would be mitigated just by distance. They are
23 now able to drill a mile --- over a mile horizontally.
24 There is no reason to place a pad closer than a half a
25 mile to somebody's residence. Part of the noise is

1 on-site massive generators. These run 24 hours a day,
2 seven days a week, almost from the time of pad
3 development until the pad is complete with pipelines,
4 dehydrators, evaporators and whatever else they put on
5 the pad. This does not even consider the truck
6 traffic, which is also 24/7.

7 This year, in particular, they worked
8 Easter Sunday, clanging pipes, equipment, backup
9 alarms and loud roars of diesel motors. Pad creation
10 doesn't happen overnight in a forested area. Start to
11 finish it takes over six months to develop a pad on a
12 wooded site with eight to ten wells on it. And add to
13 that, you get into the routine maintenance on the pad,
14 more truck traffic. Some of the pads in our area have
15 been here for over six years and trucks continue to go
16 down almost daily. Besides the noise, we're also
17 getting the dust and diesel fumes, which gets into my
18 second issue.

19 Air quality in our area used to be
20 great. Everybody wanted to go outside and just smell
21 the pine. Now, at times we don't even want to go
22 outside because of the dust and the odors, not just
23 diesel fumes but chemical smells. It even gets down
24 to the welding of the pipes and the stink from the
25 welding and the generators on the welding trucks.

1 Besides that, we have a central waste impoundment
2 adjacent to our house. This was not permitted on
3 state forest, so they bought a thirty-one-and-a-half
4 acre private property adjacent to the state forest and
5 adjacent to hunting camps. They got a county variance
6 to place a central waste impoundment and a staging
7 area for equipment.

8 More trucks 24/7. There's an open pit
9 that holds three-and-a-half million gallons of
10 wastewater. More trucks and noise 24 hours a day.
11 You can do the math, figuring out how many truck trips
12 it took at 3,500 gallons per truck. It has been
13 filled and emptied at least three times. Plus, all
14 the trucks bringing equipment for storage, gas pipes,
15 inter-duct, water pipes, stone and other equipment on
16 the staging area.

17 More consideration is given to the gas
18 companies and the residents that live adjacent to it
19 have to put up with it. The philosophy from our
20 executive people are that if you just don't like it,
21 move.

22 In my opinion, part of the planning
23 process for permitting of gas drilling should also be
24 a contact and evacuation plan, should there be a fire,
25 chemical release, spill or explosion. There's nothing

1 in place in our area to contact the local people.
2 There is basically one good route in and one good
3 route out from the drill sites and houses.

4 In conclusion, more consideration is
5 given for gas drilling jobs, which in our particular
6 area are mostly out-of-area people and special
7 interest money than the environment you folks were put
8 in place to protect. Where is the relaxing atmosphere
9 for the future generations? I had personally enjoyed
10 coming here and moved here years ago prior to any of
11 the gas drilling. We don't have any quality of life
12 left in our particular area. Thanks for your time.

13 CHAIR:

14 Our next three witnesses this evening
15 will be Timothy Eriksen, John Ryan and Matt Henderson.
16 Timothy Eriksen? Timothy Eriksen, John Ryan and Matt
17 Henderson are our next three.

18 MR. ERIKSEN:

19 My name is Tim Eriksen. Though I am a
20 current resident of Tioga County, New York, I was born
21 and spent most of my life in Pennsylvania. I am a
22 Professional Geologist licensed to practice Geology in
23 the Commonwealth of Pennsylvania. I am employed by a
24 Pennsylvania groundwater consulting and contracting
25 firm. Groundwater is what I do for a living. I do

1 have a couple of general comments.

2 The general --- current draft revisions
3 of Chapter 78 seem to have been developed based on
4 fear, rather than the best available science. The
5 fear of oil and gas development, especially
6 unconventional development, otherwise known as the
7 Marcellus and Utica Shales, has been a moving target
8 over the last seven years and is endemic of bad
9 science, disingenuous print, online and television
10 media and a general misunderstanding of industry
11 processes. I am intimately familiar with some of the
12 private water supplies that have been impacted and ---
13 allegedly impacted, an argument mentioned by other
14 witnesses prior to me. Like I said, groundwater is
15 what I do for a living. I do it every day.

16 An example of some of those moving
17 targets, and there are many. One, hydraulic
18 fracturing will consume too much fresh water.
19 Incorrect. In the Susquehanna River Basin, the most
20 fresh water that the industry has used in any single
21 day is approximately half of what flows through the
22 basin in 1 minute. That is less than one half of one
23 percent of the surface water available. Additionally,
24 one of the combustion products of methane is water.
25 Some studies suggest that the combustion of methane

1 has created and added more water to the water cycle
2 than what is consumed by the oil and gas industry.

3 Moving target number two, of many.
4 Hydraulic fracturing will contaminate drinking water
5 supplies. That is incorrect. Anyone who has taken a
6 structural geology or rock mechanics course knows why
7 this is the case. Furthermore, after nearly 1.5
8 million frack jobs since the 1960s, neither the United
9 States EPA nor the regulatory agencies of the 30 plus
10 states who take advantage of this resource can
11 identify a single instance of this happening.

12 Moving target number three of many. The
13 industry will further contribute to the release of
14 fugitive methane and thereby increase greenhouse gases
15 to the atmosphere. Once again, incorrect. Methane
16 and CO2 concentrations in the atmosphere have
17 decreased over the last decade, despite record
18 production of natural gas.

19 Number four, development of oil and gas
20 resources will increase human exposure to
21 radioactivity. Incorrect. The DEP's own study
22 rejects this notion.

23 It appears that the current set of
24 regulations, in many instances, is based on some of
25 these manufactured fears. Of the 30-some states that

1 regulate the oil and gas industry, Pennsylvania is
2 currently the third most expensive to drill in on a
3 cost per foot basis. The misplaced fear that has been
4 promulgated into this draft regulation will surely
5 drive Pennsylvania to the top of that list and there
6 will be little or no environmental benefit, and there
7 will be absolutely no financial benefit to the
8 Commonwealth or its citizen.

9 For a good example of that, look about
10 90 minutes north of here, for an example of missed
11 opportunities, based on fear and misinformation. For
12 these reasons, the draft Chapter 78 revisions should
13 be withdrawn and reconsidered. In the event that
14 these draft revisions are not withdrawn, I offer the
15 following specific comments.

16 78.51, protection of water supplies. If
17 an operator causes a change to the water quality of a
18 private water supply, the water must be replaced with
19 like quality water or to the standards established
20 under the Pennsylvania Safe Drinking Water Act,
21 whichever is better. No domestic water supply is
22 subject to this standard throughout the state. It is
23 unreasonable to consider this regulation when there is
24 no domestic water well construction standards
25 available to the Commonwealth. Rather, the proposed

1 restoration standards should be made to meet
2 predrilling water quality.

3 78.52, predrilling or prealteration
4 survey. The revisions in this section require the
5 operator to submit a copy of all predrill or
6 prealteration samples to the Department within ten
7 business days of assignment of an API number for the
8 gas well that is the subject of the survey. Though I
9 absolutely understand the Department's reasons for
10 doing this, I would propose a different reporting
11 milestone, such as ten days prior to spud.

12 Section 78.66, reporting and remediating
13 spills and releases. This is going to require
14 operators enter a voluntary program that was to create
15 --- to encourage the use of blighted lands and making
16 it mandatory for oil and gas operators. In addition,
17 this section proposes timelines for specific actions
18 that do not exist in the Act 2 program. And this is a
19 bit of a misuse of the program. That concludes my
20 remarks. Thank you to the Environmental Quality Board
21 and the DEP allowing me to comment.

22 CHAIR:

23 Next up we have John Ryan.

24 MR. RYAN:

25 Good evening. My name is John Ryan. I

1 am Regional Manager for McTish Kunkel & Associates,
2 located at 1500 Sycamore Road, Montoursville,
3 Pennsylvania. McTish Kunkel & Associates is an
4 engineering and environmental services firm with three
5 offices in Pennsylvania, Allentown, Pittsburgh and
6 Montoursville. The Montoursville office was
7 established 13 years ago and provides numerous
8 services to clients throughout Central Pennsylvania,
9 as well as natural gas related clients in
10 Pennsylvania, Ohio and West Virginia.

11 In 2008, prior to the onset of the
12 natural gas exploration and development in Central PA,
13 we employed approximately 20 people at the
14 Montoursville office. By 2012 we had grown to 90
15 employees, as a direct result of our involvement in
16 the natural gas industry. These are good jobs, filled
17 by local people, and include engineers, surveyors,
18 biologists, environmental scientists, technicians and
19 construction inspectors. More than 50 of these
20 positions are filled by people who were educated
21 locally at the Pennsylvania College of Technology.

22 Today, although there has been a
23 substantial reduction in gas development in Central
24 PA, we employ 70 at the Montoursville location, where
25 most are still employed by the natural gas industry.

1 This work is performed in Central and Southwestern
2 PA, Ohio and West Virginia. Our firm has benefited
3 greatly from the development of natural gas and we
4 hope to continue this relationship for a long time to
5 come.

6 In addition to our personal benefits in
7 the shale gas development, it is also positively
8 impacting Pennsylvania and our country.

9 Shale gas development is supporting and
10 has made more secure over 200,000 Pennsylvania jobs.
11 \$830 million in impact taxes will be distributed to
12 local communities and environmental programs, and over
13 \$2.3 billion in additional tax revenue has been
14 generated by shale development.

15 Pennsylvania now produces 25 percent of
16 the U.S. natural gas supply, which has lessened our
17 dependence on foreign energy sources.

18 Pennsylvania residents are benefitting
19 from energy prices which are more than 40 percent
20 lower than the onset of significant shale gas
21 production in 2008, saving homeowners and businesses
22 billions of dollars annually.

23 Natural gas is a clean burning fuel
24 source, accounting for nearly 25 percent of our
25 electric generation supply, heating homes of over

1 5,000,000 Pennsylvanians. It has contributed to
2 improved air quality in Pennsylvania due to
3 significantly less CO2 emissions.

4 Pennsylvania already has world class
5 environmental regulations that have been a model for
6 states across the nation. These regulations have been
7 reviewed and praised by the independent STRONGER
8 board. Additional and more stringent regulations are
9 not necessary and will only inhibit the further
10 development of this valuable resource and hinder what
11 should be the goal of every resident of Pennsylvania
12 and our country, which is energy independence.

13 However, if you must develop more
14 stringent or additional regulations that will impact
15 the development of natural gas, I implore you to base
16 your decisions on fact rather than emotion, on science
17 rather than arbitrary information and be well defined
18 rather than ambiguous.

19 Deficiencies of the proposed rulemaking
20 are as follows: It appears that DEP has failed to
21 conduct a cost-benefit analysis for the proposed
22 changes to this rule. They have not conducted an
23 analysis of the impact on small businesses, both of
24 which are required by law. It appears that DEP is
25 sidestepping the ability of the legislative oversight

1 committees and the Independent Regulatory Review
2 Commission to formally comment on the sweeping
3 regulatory changes proposed in the Advanced Notice of
4 Final Rulemaking.

5 It appears that this rulemaking will
6 result in significant compliance costs at a time of
7 historic downward commodity price pressures, making
8 Pennsylvania less competitive with other shale basins,
9 while providing little, if any, commensurate
10 environmental benefits. It appears that the
11 rulemaking contains standards applicable only to the
12 oil and gas industry. There is no justification for
13 singling out one industry for burdensome rules that do
14 not apply to other industries. This includes
15 wastewater treatment, noise standards, new storage
16 tank standards and waste reporting. Thank you for the
17 opportunity.

18 CHAIR:

19 Thank you, Mr. Ryan. Next, we have Matt
20 Henderson.

21 MR. HENDERSON:

22 Thank you. Matt Henderson, 76 Hoffman
23 Road, Mountoursville, PA, 17754. I'm here this
24 evening as a lifelong Lycoming County resident,
25 private citizen and also I reside among natural gas

1 development here in Lycoming County. While oil and
2 gas development is not new to the Commonwealth, shale
3 development is new to our part of the state. I can
4 say confidently this development has had an enormous
5 positive impact in our community. We have benefitted
6 locally with the creation and growth of many
7 businesses, numerous jobs, improved infrastructure,
8 increased philanthropic giving and a cleaner
9 environment.

10 Shale development has placed
11 Pennsylvania in the national spotlight and now
12 accounts for 25 percent of the U.S. gas supply, which
13 has helped us reduce our dependency on foreign energy
14 sources. Shale development has led to lower energy
15 prices, down nearly 40 percent, allowing businesses
16 and homeowners to reinvest the billions of dollars of
17 savings back into their community.

18 The last eight years of my professional
19 career have been positively impacted by the natural
20 gas industry, from helping local businesses capitalize
21 on this opportunity by starting and growing
22 businesses, to working for an academic institution
23 focused on community education and outreach, to
24 currently working for a local operator that has
25 invested tens of millions of dollars into this

1 community and looking to invest millions more. And as
2 members of this community, who drink the well water
3 and breathe the air, no one has a more vested interest
4 in making sure that we protect our environment. My
5 family and our livelihood is directly affected by the
6 decisions you make in Harrisburg.

7 I am concerned that this tremendous
8 opportunity we have been afforded is in jeopardy. The
9 Department is proposing a series of requirements that
10 may read well out of a book for those who do not need
11 to live with the consequences of your decisions, but
12 which threaten my livelihood and that of my family.
13 Because of what you are proposing to do, you have my
14 full attention.

15 You are proposing brand new standards
16 very late in the regulatory process. Despite claiming
17 to be going above and beyond, with respect to public
18 input, what the Department has actually done is
19 effectively sidestep the legal requirements you are
20 supposed to adhere to. For example, this regulation
21 has no compliance cost estimate, it has no cost-
22 benefit analysis, and it fails to consider the impacts
23 to small businesses, as required by the General
24 Assembly. It does not apply environmental standards
25 consistently across industries. You have proposed new

1 standards for noise mitigation, which does not fulfill
2 any of your environmental obligations, and instead
3 intrudes on the decision-making process of elected
4 officials here in Lycoming County. You have new
5 standards for storage tanks, site remediation and
6 waste handling and reporting, which treat the natural
7 gas industry differently than every other industry in
8 the Commonwealth. Other standards are vague and
9 inconsistent, such as requirements for considering
10 other critical communities, and make it difficult, if
11 not impossible, for an operator to know how to comply
12 with the law.

13 In my various roles of helping to create
14 small businesses, educating the public about shale
15 development, and now working to safely produce
16 Pennsylvania's energy resources, I have seen a
17 commitment to protecting our environment. I believe
18 in high, strong and consistent environmental standards
19 because it's the right thing to do and because it
20 protects my family. But the Department must correct
21 its course here. However well-intentioned some of
22 these provisions may have been, they simply continue
23 to strangle the opportunities available for myself and
24 my neighbors here in Lycoming County.

25 I was born and raised in Lycoming County

1 and hope to live my whole life here. I want the same
2 opportunities, should they choose, for my children.
3 Respectfully, you have put that future in danger. On
4 behalf of them, I ask you to reevaluate these rules
5 and come back with more sensible changes that work for
6 the citizens of this community. Thank you.

7 CHAIR:

8 Our next three witnesses this evening
9 will be Thomas Gillespie, Melissa Troutman and Diane
10 Ward.

11 MR. GILLESPIE:

12 Once again echoing what everyone else
13 has said, thank you for your interest in our comments
14 on the proposed regulations. I'm very pleased to be
15 here. My name is Thomas Gillespie. I present my
16 testimony tonight as the Director of Regulatory,
17 Health, Safety & Environment at Inflection Energy,
18 here in Williamsport, at 49 East 4th Street.

19 I am a Pennsylvania licensed
20 Professional Geologist. I am actually on the
21 Pennsylvania licensing Board for Professional
22 Engineers, Land Surveyors and Geologists. I'm the
23 outgoing President of that State Licensing Board. I
24 also represent Pennsylvania in the National
25 Association of State Boards of Geologists, where I am

1 the President elect on the executive committee, the
2 subject matter expert in structural geology and
3 hydrogeology.

4 Over the past 30 years I have had very
5 close ties with the Pennsylvania DEP and its
6 regulations in many, many different fields. I've
7 worked in just about every field a geologist can work
8 in within this state. And I've worked very closely
9 with the Department. My experience in all that time
10 has been that, at least until now, the Department has
11 been able to fulfill its charges to ensure public
12 protection, protection of the environment, without
13 suppressing economic opportunity and the public weal.
14 That has been possible because the Department has
15 operated under balanced statutes and regulations which
16 ensure that we can have economic prosperity and a
17 clean, healthy environment.

18 The regulations proposed by the current
19 administration's newly minted DEP and Technical
20 Advisory Board would be a divergence from that history
21 of well-balanced regulations. The cooperative
22 relationship between the Department and the private
23 sector, which has catapulted Pennsylvania to the
24 forefront of an energy and economic revolution, would
25 be in jeopardy. Because those proposed regulations

1 are vague, broad, expansive and internally
2 inconsistent. For example, under the guise of
3 protecting biological species, the proposed
4 regulations provide that rocks, soil, water, air and
5 even entire geographic --- geologic formations can be
6 classified as Critical Communities, requiring special
7 protection, such as a species might get. The
8 regulations would also result in redundant but not
9 overlapping requirements with other agencies, but
10 would add little in the way of additional protections
11 above that which we have already. Such regulations
12 invariably result in inconsistent interpretations
13 within the Department, a burden on the regulated
14 industry, an uncertain regulatory climate, and they
15 provide opportunities for frivolous legal actions.

16 Simply put, an increased regulatory
17 burden for little in the way of increased protection
18 will drive operators to other states. If the Wolf
19 administration's objective is to do just that, there
20 are few better means to achieve that goal than the
21 one-two punch provided by the tax proposal and these
22 proposed regulations.

23 Such an outcome would be detrimental to
24 the Commonwealth and the entire country. It's also
25 contrary to the overarching mandate of government,

1 which is to provide for the health, safety and public
2 welfare of all citizens. Frankly, despite what might
3 occur tonight, a citizenry whose basic needs of heat,
4 electricity and jobs are not met does not have the
5 luxury to enjoy a pristine environment. That's all
6 there is to that.

7 The ostensible need for the proposed
8 regulations, the so-called controversy over hydraulic
9 fracturing, is a chimera, a delusion of smoke and
10 mirrors. My graduate school research topic in 1980
11 was hydraulic fracturing. It's a long-established
12 technology which has been and is being practiced
13 safely and it has been for 65 years. It is no
14 different than oil and gas development in conventional
15 reservoirs in which 90 percent of all wells are
16 hydraulically fractured to enhance recovery - nearly
17 two million hydraulic fracture treatments in over 27
18 states with not a single instance where the hydraulic
19 fracturing resulted in any environmental impact.

20 There is nothing new that requires new
21 regulation. Pennsylvania, the very first oil and gas
22 producer in the world, and now the world leader in
23 natural gas, already knows how to produce energy while
24 simultaneously ensuring a clean, healthy and safe
25 environment. Which we do, indeed, enjoy despite the

1 hue and cry of doom and gloom. In its ability to
2 ensure a balance between economic prosperity and clean
3 environment, the existing DEP does not need to be
4 fixed, as it is not broken. The existing regulations
5 do not need to be amended, as they are not broken.
6 What would be broken if these regulations pass as
7 proposed is Pennsylvania's economy, the job market,
8 and America's ability to achieve energy independence
9 within the next six years, which is in our grasp and
10 it's under a threat.

11 On behalf of all Pennsylvanians, I urge
12 our legislators, our Environmental Quality Board and
13 the Pennsylvania DEP to reconsider the provisions in
14 these regulations which basically hinder, swallow and
15 even threaten to shut down the industry which provides
16 the lifeblood of our current and future society, the
17 natural gas producers of Pennsylvania. Thank you.

18 CHAIR:

19 Next we have Melissa Troutman?

20 MS. TROUTMAN:

21 My name is Melissa Troutman. I am a
22 resident of the Commonwealth. I'm going to refrain
23 from giving my exact address. In 2011 I cofounded the
24 investigative news nonprofit Public Herald, and I
25 began this work to investigate this agency. Public

1 Herald produced the documentary Triple Divide, which
2 Scott Perry personally told me was well done. In
3 Triple Divide we began to unveil how DEP has only
4 pretended to protect the public.

5 For those of you who believe that the
6 human impacts are doom and gloom, you can tune out
7 now. Because I'd like to dedicate the rest of this to
8 the people who've been harmed by this industry and
9 this agency. Terry Greenwood, may he rest in peace.
10 Carl Stiles, may he rest in peace. Judy Eckert. The
11 Carr and Headley families. The Sethman family. Jenny
12 Lisak. Jennifer Goorelly. The Brown, Geary, and
13 Latin families. Carolyn Knapp. The French family.
14 These people probably don't matter to you. The Ely,
15 Carter and Pepper families. The Kretschman family.
16 The Richardsons. The Barndts, Penni Lane and her
17 children. And the countless others whom the DEP has
18 harmed by issuing permits that led to the destruction
19 of their lives. Those are facts, friends, not just
20 emotions.

21 It's time this agency stop pretending it
22 can protect us, and that it is not a shadow of the oil
23 and gas industry, for all its boohooing. And you need
24 to stop pretending you can replace water supplies that
25 have been contaminated, for instance. I challenge

1 everyone who works at DEP to wake up tomorrow morning
2 and tell the truth, that the true job of this agency
3 is not to reduce pollution, but to increase it and
4 then sometimes try to clean up --- clean the mess up
5 afterward.

6 Your authority is castrated as soon as a
7 company decides they want to deny responsibility.
8 They tie you up in legal negotiations for months or
9 years, and meanwhile people are living on bottled
10 waters, and they have to move, not because they need
11 to find a new job, but because their house might
12 explode. And then, at the end, you ask them to sign a
13 Consent Order.

14 Fact. Right now, DEP admits to 256
15 cases of water contamination related to fracking,
16 unconventional operations. I have a question. Do you
17 have to drill to frack? If you do, and the drilling
18 that you require for fracking causes water
19 contamination, that's fracking. I can't believe
20 people are still saying that there's not one case of
21 water contamination related to fracking. You are
22 lying. I'm baffled how ---. Sorry.

23 Of those 256 cases of water
24 contamination, how many water supplies have been
25 restored? I've looked at hundreds of your water

1 contamination investigations. Guess how many restored
2 water supplies I found? That's right. Zero. Because
3 a \$20,000 filtration system is not a restored water
4 supply, it's a filtration system. It's very
5 expensive. It requires constant maintenance,
6 electricity, replace parts for the lifetime ---
7 however long those people need to live there.

8 I don't even know why Section 76.51 is
9 being reworded. I mean, what's the point? The icing
10 on the cake is that while companies deny
11 responsibility, you issue them more permits. Same
12 company bucking your authority, just give them more
13 permits.

14 John Quigley has said this about these
15 regulations. These proposed revisions focus on the
16 need to protect public safety and the environment
17 while enabling drilling to proceed. I prefer the
18 wise, courageous words of Martin Luther King, Jr., who
19 is a civil rights leader. You guys might have heard
20 of him. He said, quote, in the end, we will not
21 remember the words of our enemies, but the silence of
22 our friends. And I'd like to think that the Governor
23 and this agency are friends of the public, who will
24 not just continue to be silent. Terry Greenwood,
25 Carl Stiles, their blood is on this agency's hands.

1 CHAIR:

2 Next up we have Diane Ward.

3 MS. WARD:

4 Hi. My name is Diane Ward. I live in
5 Wysox, PA, in Bradford County, in a nonconventional
6 drilling area. First of all, I'd like to thank you
7 for the opportunity to come in. And also, I was a
8 commentator at other events in the past and provided
9 input, and I do want to thank the DEP for taking some
10 of the input. I know I worked really hard for about
11 40 years to try to get some action on the issue of
12 drilling near legacy gas wells. And the current
13 regulations have definitely made an improvement. And
14 I truly, you know, from the bottom of my heart, I want
15 to say thank you, because if we don't work on these
16 things, you do not see an improvement. If we do work
17 on these things, we will make improvements on issues
18 we are having.

19 However, although there were a number of
20 shining stars, I guess, in the current draft
21 regulations, you need to persevere and ensure that
22 these positive changes that you have made go through
23 to the final approved rulemaking. If they don't, it
24 will be all for nothing.

25 My five minutes today are to express a

1 strong concern that is generated in the regulations.
2 And unfortunately there is something in there that
3 deeply undercut the strong progress that you were
4 making forward elsewhere in the regulations. And that
5 particular issue is the inclusion of a definition of
6 abandoned water well and the use of the newly-defined
7 term in determining gas well site compliance with
8 Section 321 --- 3215(a). The existence and location
9 of water wells is an important consideration in the
10 siting of new gas wells. The regulations in Section
11 3215(a) determine critical well location restrictions.
12 And I've shown that in my handout that I'm going to
13 give to the --- for your written input.

14 The inclusion of the new abandoned water
15 well definition constitutes a unilateral, heavy-handed
16 decision on the part of DEP that a large portion of
17 our state's water wells are abandoned water wells and
18 not of consequence relative to the placement of new
19 conventional or unconventional oil and gas wells. So
20 in other words, the setbacks won't apply because
21 someone is deeming that this well is not important
22 because by your new definition it is not worthy of
23 being set back from. Okay?

24 This is a very, very important setback.
25 This proposed definition is fuzzy. For example, the

1 wording on the proposed definition for an abandoned
2 water well is --- it includes something that says it's
3 abandoned when its use on a regular or prescribed
4 basis has been discontinued. What does that mean?
5 How will that be interpreted? More importantly, the
6 definition presumes that someone other than the
7 property owner is making a determination about the
8 value of our current and future uses of a property's
9 assets.

10 The process for making this designation
11 of abandoned water well is not specified in the
12 proposed final regulations, which is another issue.
13 And I have a basic question. Where did this whole
14 thing about abandoned water wells suddenly come up?
15 Who brought this up? Because it does, indeed, put a
16 back door into the gas companies to get closer and
17 closer to our assets.

18 All water wells, used or unused, are
19 doorways into our aquifers. Whether an aquifer is
20 currently used or not is of little consequence
21 relative to your agency's charge to preserve the
22 purity of the waters of the Commonwealth. All water
23 wells are paths to the possible migration of methane
24 or chemical pollutants under the less than ideal
25 drilling and transporting realities of the gas

1 industry. And the older the water wells are, the more
2 likely that they might be a vehicle to methane
3 migration to the surface, maybe in the outdoors, maybe
4 in your basement, in some unused well.

5 The drilling industry should put a
6 priority on avoiding abandoned water wells via
7 setback, rather than looking to get a broad brush
8 definitional waiver, the worst kind of waiver, to ---
9 so that they don't have to set back from the water
10 wells.

11 Looking at my own properties, I can see
12 that there are probably way more abandoned water wells
13 in this state than there are active ones. But
14 consider that these abandoned wells are possibly a
15 future outside water use, water in a town where
16 municipal water allows, given the ordinances, that you
17 could use a separate well versus the town water.
18 Some type of use in the future, when a property is
19 subdivided. May be associated with a property that
20 needs to be rehabilitated and inhabited in the future.
21 There is piecemeal development of parcels, due to
22 limited funds on the part of residents. Sometimes
23 you're just waiting for the next trailer to come in.
24 Okay? So don't use our well.

25 So we do not want any of our wells

1 classified as abandoned by any proposed definition.
2 Take it out, get it out. And get out the part where
3 it says that it's going to determine the compliance
4 with Section 31 --- 32.15.

5 Please don't give the industry a
6 backdoor to sneak in, creep in closer to our residents
7 and towns. They already have much more latitude in
8 there than their environmental --- in their
9 decision-making than environmental behavior warrants.
10 And don't sign a death warrant on the future of low
11 cost private water that meets drinking water standards
12 in PA. Thank you.

13 CHAIR:

14 Thank you, Ms. Ward. Our next three
15 commentators this evening are Mark Fischer, Charles
16 Amer and Harvey Golubock. Mark Fischer?

17 MR. FISCHER:

18 Hello. My name is Mark Fischer. I'm
19 with LW Survey. My address is 1725 Oregon Pike,
20 Lancaster, Pennsylvania. LW Survey provides
21 professional survey, mapping and routing services to
22 the oil and gas industry. We're the country's largest
23 pipeline survey firm. So to say that we have our
24 finger on the pulse of the midstream sector is an
25 understatement. We track, monitor and pursue nearly

1 every pipeline project in the U.S., Canada, Russia and
2 Australia.

3 My job in business development is to
4 ensure our professional survey crews stay employed.
5 In the past three months alone, I have witnessed an
6 unprecedented amount of uncertainty among my clients
7 and prospects, which has led to projects being
8 delayed, rethought or canceled entirely. All of this
9 from the mere uncertainty of the fiscal and regulatory
10 climate in Pennsylvania. We have laid off survey
11 crews since the downturn began. Couple that with
12 Harrisburg's intent to further tax the industry and
13 now the DEP's move to change the rules, Pennsylvania
14 could effectively create a perfect storm, one that
15 will most certainly kill the golden goose that remains
16 one of the brightest spots in our Commonwealth's
17 economy.

18 I am among the 340,000 Pennsylvanians
19 employed by the oil and gas industry. That number
20 should only grow, as some estimate we are only 15
21 years into a 150-year process. But we will never get
22 the chance to realize those numbers, those jobs, and
23 the economic benefits for all Americans, not just
24 Pennsylvanians, if we continue to single out an
25 industry with burdensome rules that don't apply to any

1 other industry.

2 I had dinner the other night with two of
3 your colleagues, actually, from the DEP. These two
4 are personal friends and we rarely discuss business.
5 However, I felt compelled to share with them the
6 reality that, to date, there is only one operator in
7 the entire Marcellus Shale play that is currently cash
8 flow positive. One of them. After eight (sic) ---
9 some odd years, only one is cash flow positive,
10 primarily due to the lack of infrastructure to move
11 this product to market. My friends were astounded.
12 They had no idea, and I wonder if you realize just how
13 tenuous this situation really is.

14 Extraction, production, transportation
15 and distribution is a long and complex process, no
16 doubt, but one that has been further stressed by
17 regulatory oversight that many believe is
18 overreaching. PA already has world class
19 environmental regulations. Protecting the environment
20 is in everyone's best interest. But why should we pay
21 an unfair price? Some of these proposed standards,
22 like new limitations regarding public resources, are
23 literally unlawful. Why?

24 Just seven years ago we were in near
25 panic over our reliance on foreign energy imports. A

1 precarious position for sure. Today, thanks to
2 American ingenuity, that was developed by Americans,
3 produced and delivered by Americans, and that benefits
4 every American, is in jeopardy. Piling on additional
5 regulations would be crippling. I, along with my
6 hundreds of thousands of colleagues, implore you to
7 work with us on these proposed standards that,
8 frankly, have little to any commensurate benefits.

9 Bottom line, rigs are mobile. They've
10 got wheels. If they move to other basins around the
11 country and globe, PA will have lost out on one of the
12 greatest economic stimulators we witnessed in our
13 history. Hundreds of thousands of jobs are on the
14 line. The ball is in your hands. Our loss is the
15 Middle East's gain. Please don't drop the ball on
16 this game-changing opportunity. Thank you for the
17 opportunity to comment.

18 CHAIR:

19 Thank you, Mr. Fischer. Charles Amer?

20 MR. AMER:

21 Good evening. I'm Charles Amer, and I'm
22 coming to speak here tonight as a citizen of Sullivan
23 County, in support of the jobs and opportunities that
24 the natural gas industry has afforded this area, this
25 state and this country.

1 I'm a lifelong resident of Lycoming
2 County. I was born and raised there in Hughesville.
3 I got a degree from Bucknell University in Chemical
4 Engineering, and a Master's from Penn State University
5 in Environmental Engineering. I'm a Professional
6 Engineer. And based on that education, as well as my
7 professional experience, I feel as though I'm amply
8 qualified and well-versed in the fields of water
9 treatment and water quality.

10 I have 29 years of consulting
11 engineering experience and I have worked in the gas
12 industry for the last six years. Presently, I live in
13 Sullivan County, near Laporte. And I have entered
14 into four gas leases with three different energy
15 firms. And these leases also include a 30 inch
16 diameter pipeline --- it's an interstate pipeline,
17 that goes through my one property. So I have
18 firsthand knowledge of the impacts of drilling and
19 leases and pipelines, as I have to live and breathe
20 and deal with them all the time.

21 But on the flipside what I've seen is
22 through the impact fees, lowering my taxes, improved
23 roads and the rehabilitation of Sullivan County's
24 courthouse. So there are many benefits that come with
25 oil and gas development.

1 I've been fortunate to be able to work
2 in North Central PA. That's only been for the last 10
3 or 15 years. Prior to then, I was working in other
4 parts of the country. My brother works for a large
5 exploration and production firm. My nephew is a well
6 driller. My wife teaches at a local high school and
7 many of her students have gone on to serve many
8 aspects of the oil and gas industry.
9 So it is from my heart that I feel as though that this
10 industry has created lots of opportunity and I would
11 like to see the Department continue to support the
12 industry.

13 I agree with DEP's goal of protecting
14 human health environment --- human health and the
15 environment. And it's also my job to help these
16 energy companies to secure permits through DEP, the
17 Susquehanna River Basin, the Army Corps of Engineers,
18 Conservation Districts, local municipalities and such.
19 So based on that and my knowledge, I feel as though
20 that in order to eliminate or minimize the threat to
21 human health and the environment, whatever rules
22 you're considering and contemplating, they should not
23 be onerous or overly burdening. This industry has
24 lots of opportunities and I would like to see those
25 opportunities continue on for my family and my

1 children.

2 And to sum it up, as I stated earlier, I
3 feel as though that your regulations are very
4 satisfactory and --- otherwise I wouldn't have entered
5 into the oil and gas leases and jeopardize my drinking
6 water supplies and the health and welfare of my
7 family. Thank you very much.

8 CHAIR:

9 Thank you, Mr. Amer. Next is Harvey
10 Golock (sic)?

11 MR. GOLUBOCK:

12 It's close.

13 CHAIR:

14 I tried.

15 MR. GOLUBOCK:

16 Good evening. I'm Harvey Golubock. I
17 am representing two companies here tonight. I am
18 President of ARG Resources, located in Highland, PA.
19 And I'm also Vice Chairman of American Refining Group
20 that owns and operates a refinery in Bradford,
21 Pennsylvania. ARG Resources owns and operates
22 approximately 1,500 conventional oil wells in
23 Highland, PA. It's a waterflood operation with
24 approximately half the wells as producers and half as
25 injection. All wells are hydraulically fractured and

1 have been for at least the last 50 years.

2 American Refining Group, or ARG, as it
3 is commonly known, owns and operates the oldest
4 continuously operating crude oil refinery in the
5 world, located in Bradford, Pennsylvania. The
6 refinery dates back to 1881. ARG acquired the
7 refinery from Witco Corporation in 1997. I was
8 President of ARG from '97 until my retirement in 2011.
9 Most of the industry gave us six months before we
10 would be out of business and yet here we are 18 years
11 later, still a viable operation, employing over 360
12 people, up from about 160 in 1997.

13 The refinery is unique, in that it can
14 only process a certain type of crude oil, principally
15 what is generally termed Pennsylvania Grade crude oil.
16 This crude is found in Pennsylvania, Ohio, West
17 Virginia and New York State. There are some
18 locations, such as Michigan, and some from the Utica
19 formation that produce small quantities of
20 acceptable crude oil. When we acquired the refinery
21 in 1997, about 60 percent of the crude supply came
22 from Ohio and 40 percent from Pennsylvania.

23 Over the years we managed to reverse
24 that percentage, until two occurrences in recent
25 years. First, there was the ANF litigation that shut

1 down production in the Allegheny National Forest for a
2 year until the lawsuit was ultimately settled in favor
3 of the industry. Just when we were seeing a renewed
4 interest in conventional well development, the
5 Marcellus Shale was rediscovered and investment that
6 might have gone into shallow well production was
7 shifted to Marcellus development.

8 Today only about 50 percent of the
9 refinery crude comes from PA, and that percentage
10 continues to decline. Increasingly stringent
11 regulations and increased enforcement has resulted in
12 a dramatic increase in the cost of drilling
13 conventional wells. Today it can cost anywhere from
14 \$115,000 to \$150,000 to drill a shallow well and about
15 \$15,000 to plug a shallow well. These events have all
16 worked to reduce the number of conventional wells
17 being drilled in Pennsylvania, most of which are
18 drilled by small, independent producers. The
19 resulting decline in this legacy crude has made it
20 more difficult for the ARG refinery to operate at its
21 target rate.

22 The proposed Chapter 78 regs will place
23 new pressure on the local supply and will ultimately
24 have a negative effect on refinery operations. We see
25 the new proposed Chapter 78 regs as introducing a new

1 requirement to perform a stormwater analysis on every
2 new well. The industry had previously been exempt
3 from this requirement. This change will require a
4 certified expert to examine and report on every site.
5 This is expected to add thousands of dollars of costs
6 to each well.

7 The new regs will be introducing a new
8 requirement to restore new well sites to original
9 contours. The term original is new in 2015 and is
10 without statutory authority. It is also unattainable
11 in most cases. At the very least it will add
12 substantial additional cost, expressly making the area
13 of review burdens applicable to conventional oil and
14 gas operations. The 2013 DEP analysis stated that
15 these burdens did not apply to conventional operators,
16 yet the 2015 version applies these burdens to
17 conventional operations. The new version is also much
18 more complicated.

19 The foregoing is just a brief excerpt of
20 the onerous new burdens being placed on conventional
21 producers. The overwhelming conclusion is that DEP
22 has failed to analyze the financial impact of these
23 burdens, as required by statute. The financial
24 analysis cannot be an afterthought. The law requires
25 that the financial analysis and the consideration of

1 alternatives for small business all be a part of the
2 consideration during the drafting of the regulations.
3 The financial analysis is fundamental to the
4 development of reasonable regulations covering an
5 industry that has been the backbone of the economy of
6 Northwest Pennsylvania since the late 1800s. To fix
7 this problem, and to fully comply with the existing
8 statutes, the DEP needs to start the process over
9 again. It has to begin by identifying, with
10 supporting documentation, what, if anything, needs to
11 be changed in the existing conventional regulations
12 and why such changes are necessary. Thank you for
13 your attention.

14 CHAIR:

15 Our next three commentators this evening
16 are Todd Stager, Rebecca Roter and Barbara Jarmoska.
17 Todd Stager? Rebecca Roter?

18 MS. JARMOSKA:

19 Good evening. My name is Barbara
20 Jarmoska, of 766 Butternut Grove in Montoursville,
21 Lycoming County. Thank you for the opportunity to
22 present testimony at this hearing. I am testifying
23 tonight on behalf of RDA, Responsible Drilling
24 Alliance, a 501(c)3 based in Lycoming County. I will
25 go over some points in the proposed rulemaking by

1 number.

2 First of all, 78a.1 definitions. RDA
3 supports the definition of critical communities, as
4 outlined. Act 13 required DEP to consider the impact
5 of drilling on critical communities, a number of which
6 exist in the largest remaining tract of unbroken
7 forest in Lycoming County. Prior to this rulemaking,
8 the pitcher plants, rattlesnakes, spadefoot toads, and
9 iconic boulders would not have been considered.
10 Without the definition provided in 78a.1, these, as
11 well as other critical communities, are afforded the
12 recognition and protection that they deserve.

13 Regarding 78a.15, application
14 requirements. In section (b.1), we strongly support
15 the inclusion of the term watercourse as proposed. In
16 addition to sudden intermittent flows, water continues
17 to flow underground and near to the surface whether
18 watercourses are running openly or not. Their
19 presence, value and risk of contamination must be
20 considered during the application and permitting
21 process.

22 In section (f)(1)(IV), we see again the
23 mention of critical communities. RDA supports this
24 inclusion, lest bulldozers destroy irreplaceable bird,
25 mammal, reptile, amphibian and plant habitat or

1 millions of years of culturally-valued geology.

2 In section (f.1), regarding limit of
3 disturbance notification, RDA is not in agreement with
4 Roman Numeral 7, requiring notification of a permit
5 application for a well pad within a mere 200 feet of
6 common areas on school property or playgrounds. We
7 support expanded notification up to one mile in all
8 directions. Traffic, noise and other impacts
9 frequently travel at least that far from well sites.

10 Regarding 78a.41, noise mitigation. We
11 agree with the necessity of mitigating the noise
12 pollution of gas development. The noise of site
13 preparation, drilling and fracking operations is
14 frequently egregious to nearby residents. We also ask
15 DEP to include the term gas operations in this
16 section, which by definition set forth in this
17 document would include compressor stations. Many of
18 our members have experienced diminished quality of
19 life when living in proximity to compressor stations.
20 Here in Lycoming County, the zoning setback for
21 compressor stations is a mere 25 feet. No one should
22 be forced to live with continual disturbing noise. It
23 is clear from other regulations that DEP does have the
24 authority and the experience to address the full
25 spectrum of noise control.

1 Regarding 78a.51, Protection of Water
2 Supplies. Section (d)(2). RDA supports the
3 restoration and replacement of drinking water quality
4 to pre-pollution standards if higher than the Safe
5 Drinking Water standards. We are often told that
6 water supply contamination rarely --- and we are also
7 told that it never happens. If so, this regulation
8 should not be burdensome to the industry. It is a
9 simple, common sense regulation. If you ruin their
10 water, you make impacted residents whole again.

11 Section 78a.53, Erosion and Sediment
12 Control and Stormwater Management. RDA strongly
13 supports the addition of stormwater management to the
14 language, as well as the additional specifications and
15 requirements that language carries. In drilling
16 operations, erosion and sediment control are short-
17 term concerns. In post-construction standards,
18 stormwater management must be considered for decades
19 to come.

20 Section 78.a57a, Centralized Tank
21 Storage. In section (b), RDA fully supports 100
22 percent of the wording in this section. In section
23 (d), we support bonding. In short, tanks do leak.
24 Here in Lycoming County we had a nationally-publicized
25 incident. The need for bonding, insurance and

1 restrictions is common practice in other arenas, and
2 regulatory power in such matters has been fully
3 established by both OSHA and RCRA regulations.
4 Because of the potential risk, DEP needs the full
5 scope of regulatory powers outlined in this section.

6 78.a65, Site Restoration. RDA
7 appreciates and supports DEP's efforts to strengthen
8 requirements for post-drilling restoration. We are
9 not in agreement with the omission of regulations
10 regarding site restoration for post well plugging.
11 DEP has not developed adequate standards or criterion
12 to ensure that well sites will be restored with
13 respect to what is referred to as ecological services.

14 I'm almost finished. By omitting this
15 crucial aspect of restoration, DEP remains focused
16 primarily on stormwater requirements. The inclusion
17 of ecological services could and should require DEP to
18 adopt technical guidance for post-plugging restoration
19 plans. DEP (sic) requests that ecological services be
20 included in this section of the proposed rulemaking.

21 One more. Thank you for your patience.
22 78a.66, Reporting and Remediating Spills and Releases.
23 RDA supports a change in the language of this proposed
24 rule, thereby expanding the notification requirements
25 to landowners. We contend that landowners have a

1 right to be informed of any and all spills and
2 releases that occur on their property, with no
3 exceptions.

4 I want to thank the DEP for the
5 opportunity to express these concerns. This is an
6 edited version. We will be submitting written
7 comment. Thank you.

8 CHAIR:

9 Our next three commentators this evening
10 are Rich Adams, Derek Soyke and Emily Krafjack. Rich
11 Adams?

12 MR. ADAMS:

13 I'm Richard Adams, 1720 Sycamore Road,
14 Montoursville, PA, 17754. Good evening, everybody.
15 And members of the panel, thank you for the
16 opportunity to testify tonight at this very important
17 juncture for Pennsylvania's oil and gas industry, and
18 the Commonwealth as a whole.

19 I am the Environmental, Health, and
20 Safety Director for Chief Oil and Gas, LLC, a natural
21 gas producer in Northeastern Pennsylvania, with
22 offices in Dallas, Pittsburgh, Wyalusing, and in
23 Williamsport here, where I have worked in
24 environmental protection for over 40 years, at both
25 DEP and now at Chief.

1 I am also on the Board of Directors of
2 PIOGA, which as you may know, stands
3 for the Pennsylvania Independent Oil and Gas
4 Association. And my testimony tonight is on PIOGA's
5 behalf. PIOGA is a principal nonprofit trade
6 organization representing Pennsylvania's independent
7 oil and gas producers, marketers, service companies,
8 and related businesses. For decades PIOGA has worked
9 with DEP and other regulatory agencies to achieve
10 workable, effective and sound environmental practices
11 and policies for oil and gas operations, mainly
12 through our excellent lines and continuous lines of
13 communication and cooperation.

14 My testimony tonight is principally to
15 say that, at this critical point in time, in the face
16 of these tough economic situations that the industry
17 faces, those lines of communication must be kept open,
18 effective and trusted. We must engage now in truly
19 collaborative processes to achieve workable rules and
20 policies.

21 Now, you've heard tonight, in previous
22 testimony, some of the facts and statistics about the
23 economic and community benefits that have come about
24 because of the Shale Gas development, and as the 31st
25 presenter here tonight, I won't repeat them, but I can

1 tell you that they are real. Having lived and worked
2 in this area here for over 40 years, raising a family,
3 developing friendships, participating in local, county
4 and state government functions, I have personally
5 observed these benefits at the ground level.

6 I have a group of close friends whose
7 businesses and jobs span a diverse variety, from
8 welding to waste collection to consulting. And I have
9 seen how their businesses have flourished over the
10 past seven years because of the Shale Gas development
11 in Northeastern PA, enabling them to hire dozens of
12 kids who needed good jobs. And I am also proud to say
13 that with Chief, over the past five years, I myself
14 have hired seven young men and ladies from the greater
15 Williamsport area to serve on our Environmental and
16 Safety staff. So, we do create jobs and we do hire
17 locally.

18 On the community side of things, I could
19 spend hours detailing the road improvements,
20 donations, assistance on recreational and
21 environmental projects, youth education initiatives,
22 and multitudes of other projects and causes that the
23 energy companies have funded or directly performed. I
24 can tell you that when these companies develop this
25 amazing resource that we have been blessed with in

1 this Commonwealth, they become active and sincerely
2 helpful members of the community. This community
3 spirit and obligation to help is inherent in all of
4 our internal missions and policies and it is not just
5 idle rhetoric. We live it. We work it.

6 Now of course this hearing is about the
7 newly proposed Chapter 78 regs, so I will switch over
8 to that vein. And again, I am not here tonight to get
9 into painstaking detail about each individual section
10 of the proposed regulations. The Department will
11 receive detailed comment from PIOGA on each new
12 section of the regulations. I would instead relate
13 some general thoughts and impressions, oriented at
14 problem solving, with the theme that, unless DEP and
15 the industry maintain open and sincere communications
16 through the promulgation process, we may end up with
17 regulations that are not optimal, neither for the
18 industry to follow and understand, nor for the
19 Department to fairly enforce.

20 And compliance is hugely important to
21 both DEP and the operators. We emphasize compliance,
22 good environmental practices and cooperation with the
23 Department to our staff every day. And as one who has
24 worked for DEP for 35 years, and having practiced
25 compliance assistance to a multitude of industries, it

1 frustrates me to see some of the sensationalistic
2 reports and blogs about the noncompliance stories of
3 this gas industry. To be fair, we need to tell the
4 compliance stories of this industry, because that is
5 what is really happening, through our environmental
6 practices and missions.

7 I'm going to skip real quickly to two
8 points, recommendations on the new regulations.
9 Number one, I would ask the Department to consider
10 whether some of the more prescriptive sections of our
11 proposed regulation would be more effective if
12 delivered as policy or guidance. In the past, DEP has
13 had much success with writing more general regulations
14 and providing detail in subsequently-developed
15 policies or guidance. The DEP Erosion and
16 Sedimentation Control Manual, and the Special
17 Protection Stream Implementation Handbook are examples
18 of that.

19 Number two, you will receive some
20 pointed comment from PIOGA concerning the need to
21 perform an economic impact analysis of the new
22 regulations. We urge the Department to take a very
23 hard look at this and involve the industry to the
24 greatest extent possible. Thank you.

25 CHAIR:

1 Next up is Derek Soyke.

2 MR. SOYKE:

3 I'm Derek Soyke. Bradford,
4 Pennsylvania. I work a full-time job for a small
5 independent oil company with operations in
6 Northwestern Pennsylvania and Western New York. I
7 also own and operate a handful of wells in McKean
8 County. For the last five years I have had an annual
9 production of less than 200 barrels a year. I am just
10 one of many small operators that rely on a few wells
11 for extra income. My wells help cover household
12 expenses, such as real estate taxes, orthodontist
13 bills, groceries and gasoline.

14 I'm here tonight to tell you how the
15 proposed Chapter 78a regulations will affect my
16 family, my community and the shallow oil and gas
17 industry. The proposed regulation regarding tanks and
18 secondary containment could mark the end of my lease.
19 A tank replacement and a secondary containment system
20 other than an earthen dyke would cost more than the
21 lease could produce for the next two to three years.
22 This economic forecast will affect all other small
23 operators with leases just like mine.

24 Small leases play a big part in keeping
25 stability in the local economy. As the local

1 refineries are already facing troubled times, crude
2 oil shortages from the area's disappearing leases will
3 have a devastating effect. Costs associated with the
4 proposed Chapter 78a regulations of drilling and well
5 pad construction are such that my employer may not be
6 able to withstand. With no new drilling, my employer
7 will cease to exist. My employer is just one of the
8 many oil and gas companies facing possible ends.

9 Western Pennsylvania could be facing
10 unimaginable unemployment levels and a mass exodus
11 from the state. The remaining employed Pennsylvanians
12 will have to pick up the tax burden. Thank you.

13 CHAIR:

14 Emily Krafjack?

15 MS. KRAFJACK:

16 Good evening. My name is Emily
17 Krafjack. I am President of Connection for Oil, Gas &
18 Environment in the Northern Tier, 1155 Nimble Hill
19 Road, Mehoopany, Pennsylvania, 18629. We are a
20 regional advocacy organization based in the Northern
21 Tier focusing on unconventional oil and gas resources
22 within Bradford, Sullivan, Susquehanna, Tioga and
23 Wyoming counties. Our primary quest has been to
24 advocate for better regulations for gas industry
25 operations near our homes and schools.

1 I want to talk briefly about the promise
2 versus the practice. Land-men began traipsing around
3 our countryside as early as 2005. Those early and
4 more recent conversations all revolve around promises
5 made. A promise that we were guaranteed to receive a
6 minimum 12-and-a-half percent royalty, when, in fact,
7 the practice is many royalty owners are receiving far
8 less than their negotiated due royalty. A promise
9 that we do not have to be concerned about our water,
10 when the practice is dozens and dozens of families
11 have either impaired water or water restored at a
12 quality less than predrill tests would indicate. A
13 promise that the next door neighbor to a well pad
14 would only hear a hum; when the practice is to not use
15 any or very little noise mitigation which results in
16 nearby families having volumes of intermittent noise
17 that interferes with basic living. And these are just
18 a few of promises that fail to meet the practice.

19 Industry trade groups attempt to lead
20 people to believe that this rulemaking now up for
21 public comment was crafted in a vacuum. That is far
22 from the truth. These regulations have been moving
23 forward since 2011, when we were advocating for
24 protective measures with our assembly members. During
25 2013, TAB convened four subcommittees which included

1 stakeholders from industry trade groups, operators,
2 NGOs, an environmental coalition, and we were included
3 with a seat during these four subcommittees which met
4 several days discussing various proposed provisions.
5 During this process, assignments were given.
6 Opportunities were taken to submit proposals for
7 discussion.

8 Part of what came out of this process
9 was the concept of centralized tank storage
10 facilities. It was noted that a new permit was needed
11 and the assignment was for certain industry
12 stakeholders to submit for the next meeting a proposal
13 of what they would suggest for a permit. A proposal
14 was submitted, two pages long, using the word tank
15 only twice. The proposal included no description for
16 a permit but rather was a permit by rule. There was
17 continued discussion at meetings regarding this
18 concept. During the public comment period last year
19 we submitted comment what we'd like to see in a
20 centralized tank storage permit. Thus, for those of
21 us participating in the process, these new provisions
22 should not come as a surprise. They were not created
23 in a vacuum. There was plenty of opportunity to
24 provide information and be part of the rulemaking
25 process.

1 As mentioned previously, this rulemaking
2 began in 2011. In these years since, Colorado, Ohio
3 and West Virginia have all moved forward with, adopted
4 and implemented upgraded regulations and we are still
5 struggling to do so. Whether it is the United States
6 or internationally, eyes are upon the Marcellus Shale,
7 promise versus practice versus performance. The lack
8 of a clear and predictable regulatory framework in
9 Pennsylvania has been instrumental in New York and
10 Maryland's moratoriums, along with those of the
11 provinces of New Brunswick, Nova Scotia, Labrador,
12 Newfoundland and Quebec, many of whom have visited
13 here and perhaps failed to like what they saw being
14 they also instituted moratoriums.

15 Now, we at C.O.G.E.N.T. have never
16 advocated for a moratorium nor would we. At this
17 point in the play such an action would be devastating
18 to our region. However, we can readily see that
19 lacking common sense, reasonable regulations are
20 essentially much needed in order to reach a delicate
21 balance where all stakeholders thrive. It is obvious
22 that these regulations are very much needed. We
23 strongly urge the proposed rulemaking package moves
24 forward without further delay.

25 We plan to submit our written detailed

1 written comments on the new draft revisions. Thank
2 you for the opportunity to submit testimony this
3 evening.

4 CHAIR:

5 Our last two preregistered commentators
6 this evening are Todd Harman and Donna Christianson.

7 MR. HARMAN:

8 My name is Todd Harman, New Freedom,
9 Pennsylvania. I'm the founder and President of
10 Hallaton, Incorporated. We're an environmental
11 contracting company. We've worked with the
12 impoundables, secondary containment and the pads.
13 We've been installing for 22 years, and most of those
14 years installing landfills. The containment systems
15 that have been used in landfills have been working
16 fine. Before the impervious linings, compacted clay
17 was your source of containment. Not a great source.
18 The changes that have happened in the last 20, 30
19 years have made it where you can contain those things.
20 It's spelled out in our attachments.

21 I'm also the President of the Board of
22 IAGI. IAGI stands for International Association of
23 Geosynthetic Installers. That's a group of all the
24 installers around the world. On the Board are people
25 from Australia, Panama, Canada. And there's a couple

1 in the U.S. And we've worked with other organizations
2 that manufacture materials, with designers, the
3 engineering partners, GRI, GMA, and worked with them
4 to help set the standards for requirements that are
5 used in installing materials. So you don't have
6 what's happening in this industry in the last few
7 years.

8 When I first started out ---. We
9 weren't in it until four years ago, but the jobs of
10 being an installer were hard. They're coming in with
11 material, throwing it in, hey, it's flat. It looks
12 great. That's not containing. That's why it didn't
13 work. That's why you had contamination in the soil.
14 If you went to a landfill-type design, a primary,
15 secondary, an interstitial, a cushion layer, impacted
16 subgrade, it would probably --- you would have a good
17 site, a properly designed and installed lagoon that
18 can be tested at any time. And when I say tested,
19 that means doing a leak location test. Put a current
20 underneath. There's a conductive layer on the sheet.
21 Walk the top, and you can find a hole --- a pin could
22 be pushed through it and you'll find that hole.

23 Repair it and go back. Do it on the
24 secondary, do it on the primary. You can come back at
25 any time through the year and test and do that again.

1 We have installed these landfills, like
2 I said, for 22 years. The oil and gas industry isn't
3 where the worst materials are. You know, the Army
4 Corps has hired our company to work with the mustard
5 agent disposal in Colorado ---. They're using
6 lagoons. They're using impoundments. That's what
7 containing the mustard agent. I think that's a little
8 more of, you know, like a specific need.

9 The air protection. I've heard tonight
10 talking about, you know, what about the VOC, or the
11 gas coming off. With impoundments you can install a
12 floating --- you can contain a hundred percent of
13 what's in that impoundment.

14 Problems with aboveground tanks. Not to
15 say that you're going to get away from either one,
16 impoundments or aboveground tanks completely. That's
17 not going to happen. But don't exclude, through
18 revision, the impoundments. Last year the Elk River
19 chemical spill in Charleston, West Virginia, that
20 happens often. There are problems with the
21 aboveground tanks as well.

22 Source of information, Drexel University
23 has two of the best doctors down there. George and
24 Bob Koerner are incredible in this field. I don't
25 know if anyone has heard them talk before or not.

1 They have been to Harrisburg and presented to DEP.
2 They're one of the suppliers of GSE. They're
3 incredible. If there's a problem around the world,
4 they get called. They'll go to Chile. They'll go to
5 Peru. They'll go wherever. And they're
6 troubleshooting. They're going in and evaluating what
7 happened, helping to come up with a plan to make it
8 work in the future.

9 After the inspection, do the leak
10 location, do the test, design it properly. Get your
11 secondary containment. Test the interstitial. Put a
12 sensor in there. If it leaks, you'll know it
13 instantly. The way the specification is written right
14 now, it works, if you do the double line. That is
15 primary, secondary. To go to the new system
16 completely takes away the use of impoundments. So for
17 one impoundment, you might have to put ten one-million
18 gallons aboveground tanks. To me you're increasing
19 the risk, not reducing it. Thanks.

20 CHAIR:

21 Thank you, Mr. Harman. Donna
22 Christianson?

23 MS. CHRISTIANSON:

24 Good evening. Am I close enough?

25 AUDIENCE MEMBER:

1 Yeah.

2 MS. CHRISTIANSON:

3 Okay. I came cold turkey, because at
4 4:30, I got my mail from DEP, said it was tonight. So
5 I'm from Snyder County. I was born and raised in the
6 old Evan (phonetic) hospital ---. My father had a
7 business there. And in 1973 I moved into the present
8 home I own, an old homestead. Half mile lane back on
9 the bush from the south side of Jack's Mountain. I'm
10 about 20 miles, as the crow flies, from the corner of
11 Lycoming County. I like it out there. Clean,
12 pristine, how Forksville (phonetic) used to be, from
13 what I'm told. I don't even like to come up here
14 anymore.

15 First I thought it was just me. Okay?
16 Not too strong, but three times, in January, and I
17 didn't mark it down, because I thought it was just me.
18 January 2012. Three times it was strong, very strong.
19 In my home, in February 2012 I thought it was the old
20 freezer I smelled there. I have a little gas stove
21 there I only use in the summertime. I have a wood
22 fire, very --- in the bush. I turned the gas stove
23 off, and I smelled outside. Nothing outside. But my
24 home was filling up with gas. Like I said, it's
25 probably just me.

1 Then a lady up in Bedford County,
2 Southwestern PA, a doctor, she twice had weird
3 symptoms that she couldn't put a finger on. And she
4 went home and the door was open and she smelled gas.
5 They didn't smell it anymore. And if you smoke, you
6 don't smell it either, or it would be kind of a ---.
7 I used to work with ---. I'm a health freak. Sorry.
8 So I knew the body going down.

9 Monday at 5:00 p.m. somebody told me to
10 take ---. This is how I logged it. The strength and
11 type of smell, time of day, weather and temperature,
12 wind direction, duration. When I tried to hold it to
13 that ---. I was a home school mom. Sorry. 5:00 p.m.
14 Monday, the 9th of April, 2012, smelled gas outside.
15 5:00 p.m. Okay. Tuesday, 10th of July. Okay. 9:20
16 p.m. Gas was pouring in from the west living room
17 window from the swamp and the spring. Thursday, the
18 26th of May --- it's not all ---. It's just my
19 scratches and I have it better on another log here.
20 Okay. I put it out, because it came 50 times over the
21 whole year.

22 And when I realized it wasn't me, that
23 it wasn't my freezer and it wasn't the gas stove ---.
24 I can do this. I can do this. I wasn't feeling good.
25 And I kept taking more vitamins and whatever, night

1 and day. And then I was just going like this, down.
2 And so I got a hair analysis. And she let me gibber,
3 and I talked and talked. And she finally slapped that
4 down. After I calmed down, she said, where are you
5 getting all your arsenic?

6 So study section, where do I get all my
7 arsenic? So I studied --- Charles Walters' book,
8 Minerals for the Genetic Code. And a woman --- to
9 have a baby boy, you must have some good arsenic,
10 natural arsenic, like in asparagus, or the baby boy
11 will abort. But in India, the WHO, the World Health
12 Organization was advised they don't need water wells,
13 but they did. And what came up with it was all the
14 arsenic. And there were many cancer cases because of
15 it.

16 Saturday, the 14th of July ---. Sorry
17 here, I lost my place. It burned on the back of my
18 throat. Arsenic smells is in the cabbage family. So
19 when I cook or have cabbage on the stove, it would
20 freak me out because I couldn't tell if it was me or
21 if it was the cabbage. And then I'd go outside, I'd
22 go to the swamp to smell it out, literally. Okay.
23 Not seemed to be in the basement. At 10:20 p.m., gas
24 in the home. Wednesday, 1st of August, gas in the
25 home. Okay. 12:30 a.m. Okay. Sunday, the 19th,

1 August, 2012. Strong enough. 9:30 a.m. through 9:50
2 a.m., I was dizzy, stressed ---. My left spine
3 spatula --- scapula pain. And I know that's, at this
4 point, in hindsight here, I know that's an arsenic
5 thing, the pain.

6 CHAIR:

7 Ms. Christianson. I understand
8 you ---. Please write in the letter ---.

9 MS. CHRISTIANSON:

10 Well, I have a lot more. And I don't
11 even have to look at it.

12 CHAIR:

13 Well, sure. We welcome your written
14 comments. So we can read the rest. Thank you. Is
15 there anyone else in the audience tonight who would
16 like to speak? And I'd remind you, please give your
17 name for the record.

18 MR. HOWARD:

19 Good evening. My name is Dale Howard.
20 I live at 27 Eckhart Street in Hazel Hurst,
21 Pennsylvania. I am a hunter, I'm a fisherman, I'm an
22 outdoorsman. I am an environmentalist. I live and
23 play in the great outdoors of McKean County in the
24 midst of the Bradford oil fields. I get to see
25 firsthand the impact the oil and gas industry has on

1 our area. It is a positive impact. I have worked in
2 the local oil and gas industry for 34 years. Many of
3 my friends and neighbors also depend on the local oil
4 and gas industry for their income. Those who don't,
5 have friends and family who do. Oil and gas is truly
6 vital to the economic well-being of our area.

7 In regard to the proposed regulations
8 for conventional oil and gas producing, I would like
9 to request that the Department return to the
10 regulations set forth in Act 223, known as the Oil and
11 Gas Act of 1984. Until the Marcellus industry
12 arrived, the conventional producers operated under Act
13 223. The environment was protected and producers
14 could economically operate. As I try to read the
15 proposed regulations, I am boggled by the additional
16 paperwork and reporting requirements that would be
17 necessary.

18 The proposed regulations appear to be a
19 cut and paste version of regulations designed for the
20 new nonconventional drilling industry, not for an
21 industry that has been operating in Pennsylvania for
22 over 150 years. Why now, would there be any benefit
23 to producers reporting where the stone came from to
24 fix well roads? What is the benefit of reporting
25 where the fresh water came from to cement a string of

1 casing? Why require a soil scientist to determine if
2 the bottom of a pit is 20 inches above the seasonal
3 groundwater when that determination is currently made
4 by DEP inspectors who are not soil scientists? Why
5 require site-specific PPC plans when the current
6 control and disposal plan requirement has adequately
7 served the industry and environment? Why require
8 three days notification before constructing a pit when
9 there are times that an operator does not foresee the
10 need for a pit prior to commencing servicing or
11 plugging?

12 The situation can arise when a pit
13 quickly constructed and lined is necessary to control
14 a changing situation. Is it really necessary to hire
15 a registered professional engineer every time a
16 producer constructs a tank battery? What is the
17 additional cost to equip tank batteries with alarms
18 and monitoring equipment? Properly constructed
19 secondary containment provides more environmental
20 protection than any monitor or alarm.

21 On another note, there was recently an
22 article in the Pittsburgh Post-Gazette regarding these
23 proposed regulations. It contained pictures that were
24 supplied by the DEP to justify the need for more
25 regulations. One picture showed a newly cemented gas

1 well with a fire beside it. The rig crew was burning
2 plastic thread protectors on site. The DEP identified
3 it as an oil fire. As I looked at the other pictures,
4 I wondered how they showed the need for new
5 regulations. All of the incidents were violations
6 under the old regulations, Act 223.

7 I am somewhat puzzled as to why we are
8 going through this public comment process again. The
9 public provided input to the Technical Advisory Board
10 last year regarding the proposed regulations. When
11 the Technical Advisory Board suggested that the DEP
12 not adopt the regulations as proposed, they were
13 terminated. It appears as though the DEP has no
14 intention of listening to the public nor considering
15 the impact that the proposed regulations will have on
16 the conventional oil and gas producers nor the
17 economic impact to our communities. Thank you.

18 CHAIR:

19 Thank you, Mr. Howard. Do we have
20 additional ---?

21 MS. HESTON:

22 My name is Maryanne Heston. I am from
23 Potter County. My address is 179 Leech Hill Road,
24 Sabinsville, PA, 16943.

25 CHAIR:

1 Spell your last name.

2 MS. HESTON:

3 Heston. H-E-S-T-O-N. I would like to
4 thank the Pennsylvania Department of Environmental
5 Protection for providing this second opportunity for
6 public comment on the revised Chapter 78 regulations.
7 And the question that came up tonight is who is the
8 public?

9 I know that there are many people who
10 depend on the oil and gas industry for their
11 livelihoods. And we also heard from many people who
12 have been adversely affected by activities of the oil
13 and gas --- the oil and gas industry. Public
14 participation in this process, drafting and advising
15 the regulations, governing oil and gas operations in
16 our state, is essential, because it is the public who
17 must live with the impacts of drilling. It is the
18 public who will continue to experience the long range
19 impacts after the drillers have left.

20 I am not an expert. I came to this
21 meeting primarily to listen, because I found the first
22 hearing very instructive. And, as I said, listening
23 tonight has made me realize, there are real people on
24 both sides who depend on sound regulations, but
25 reasonable regulations. There are some who say this

1 cannot be done safely and should not be done and then
2 there are others who depend on this. So I don't
3 pretend to know, but I do want to say that I am
4 thankful that Emily Krafjack made the point that this
5 is not a momentary process or a process that has not
6 been ongoing over a period of years and the industry
7 has definitely had input.

8 I went to several of the meetings of DEP
9 with the Technical Advisory Board and observed how the
10 language was carefully reviewed. And the Technical
11 Advisory Board does represent the industry. So there
12 was plenty of opportunities for that input.

13 Because unconventional drilling
14 operations are so widespread, and your activities are
15 so disruptive, and potentially harmful to our air
16 quality, our land, our natural resources, our farms
17 and our communities, it is imperative that the
18 Department of Environmental Protection provides the
19 best protection possible. You represent the experts
20 and the defenders of the environment that sustains us
21 all. The Technical Advisory Board, as I've said, has
22 had numerous opportunities in the past few years to
23 weigh in on these regulations for the industry. The
24 Pennsylvania legislature has also had and will
25 continue to represent the various interests of their

1 constituents. But the public relies on your
2 Department to use your expertise to stand firmly for
3 the best oversight and protection as possible.

4 I urge you to speak strongly at the
5 negotiations still to come for the benefit of us all.
6 We've heard from some of the victims. We know that
7 their concerns are real and painful. And the last
8 speaker was a real reminder of that. You know, there
9 are human faces on both sides. Please use your best
10 judgment as you proceed in these decisions. Thank
11 you.

12 CHAIR:

13 Thank you, Ms. Heston. Anyone else who
14 would like to speak tonight?

15 SENATOR HUTCHINSON:

16 My name is Scott Hutchinson. I'm the
17 State Senator for the 21st Senatorial District, which
18 covers a portion of Northwestern Pennsylvania. And I
19 did have the opportunity to address the hearing last
20 Thursday. I wanted to reiterate the things I said
21 there, and to, again, step up to the plate for the
22 conventional oil and gas producers in Pennsylvania.

23 Yes, I do have a key interest in
24 production of safe, affordable energy for all
25 Pennsylvanians, but I'm particularly interested, as we

1 go through this process, that DEP and the rule makers
2 recognize that there is a major difference between
3 conventional and unconventional drilling in
4 Pennsylvania.

5 I'm also proud to say that I was born,
6 raised and live today in Oil City, O-I-L. We are the
7 birthplace of the oil industry, something that's gone
8 on for 155 years and done in a clean way. We also
9 have the best fishing streams and the cleanest water
10 in the state, although there has been 155 years of
11 production in Northwestern Pennsylvania.

12 I do believe that DEP has undermined the
13 spirit as well as the letter of the law in making
14 these proposed regulations as they pertain to the
15 conventional oil and gas industry. They have ignored
16 Act 126, which called for separate regulations. And
17 our intent, in the legislature, in making that law,
18 was that the new set of regulations would be developed
19 from scratch, from that point forward. And that has
20 not been done.

21 These regulations also have ignored the
22 Small Business Regulatory Review Act (sic), which
23 other folks mentioned tonight, which mandates that a
24 thorough, cost-effective analysis be looked at, and
25 how new regulations can impact small producers. And

1 let me tell you, most of these producers we're talking
2 about are small family businesses, family, mom and
3 pop, one and two, maybe five-employee companies, we're
4 talking about. So they are very small. They deserve
5 that law that says special accommodations should be
6 made for them. And I think that's important.

7 So I ask and implore you to again
8 recognize the difference between conventional and
9 unconventional. Go back to the drawing board, ask
10 what is our intent? And work to sustain all the
11 families that rely on these hardworking oil and gas
12 producers in the conventional area, and everything
13 relating to that, including two refineries that need
14 Penn Grade crude in order to sustain their jobs. So
15 thank you for this time this evening.

16 CHAIR:

17 Thank you, Senator Hutchinson. Do we
18 have anyone else who would like to speak tonight?
19 Okay. With no other commentators present ---. First,
20 before I wrap up, please, if you did speak tonight and
21 you didn't submit your testimony or you didn't have it
22 with you, please feel free to e-mail it to us. The
23 e-mail address is regcomments@ga.gov. That's
24 R-E-G-C-O-M-M-E-N-T-S @ pa.gov. Again, the written
25 comments carry equal weight as testimony provided

1 tonight. With no other commentators present, on
2 behalf of the DEP, I hereby adjourn this hearing at
3 --- it looks like 9:05 p.m. Thank you very much.

4 * * * * *

5 HEARING CONCLUDED AT 9:05 P.M.

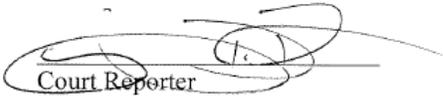
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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Chair Edinger was reported by me on 05/04/2015 and that I Lindsey Deann Powell read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.


Court Reporter