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*Submitted electronically to [RA-epOilandGas@pa.gov](mailto:RA-epOilandGas@pa.gov)*

Bryan McConnell, Chair  
Technical Advisory Board  
Harrisburg, PA  
[RA-epOilandGas@pa.gov](mailto:RA-epOilandGas@pa.gov)

**Re: PennFuture Comments to Technical Advisory Board about  
Environmental Protection Performance Standards at Conventional and  
Unconventional Oil and Gas Well Sites (Chapter 78 and 78a)**

Mr. McConnell:

Citizens for Pennsylvania's Future, or PennFuture, respectfully submits the following comments strongly supporting the adoption of the Department of Environmental Protection's proposed Chapter 78 and 78a regulations. Although the proposed regulations do not go as far as they could to protect the environment and public health, they represent a notable improvement over existing regulations. We recognize that allowing for public comment at this point in the process is not required by law, and we thank the Technical Advisory Board for the opportunity to provide these written comments about its Chapter 78 and 78a regulations concerning unconventional oil and gas well sites.

PennFuture is a non-profit, public interest organization that works to create a just future where nature, communities and the economy thrive. PennFuture's law staff works to protect Pennsylvania's natural resources for this and future generations by, among other things, commenting on proposed regulatory packages that have the potential to significantly affect our environment. PennFuture submits the comments below on behalf of its members and supporters who live in areas hosting oil and gas wells, and who hike, hunt, fish, camp and recreate in the parks, forests, lakes and streams potentially impacted by the natural gas industry and this rulemaking package.

PennFuture supports strong regulation of the oil and gas industry so as to avoid repeating mistakes that we have made in the past when attempting to develop our state's bountiful natural resources. These mistakes have left permanent scars on our landscape, made hundreds of acres of land and thousands of miles of streams unusable, and cost future generations millions of dollars in cleanup costs that have yet to be paid off. For these reasons, PennFuture believes that any development of Pennsylvania's natural gas resources must be accompanied by an aggressive program to develop a clean energy economy that

reduces our overall carbon footprint, and a comprehensive regulatory program that protects the public and environment.

As Justice Castille recognized in the Pennsylvania Supreme Court's 2013 decision in *Robinson Township, Delaware Riverkeeper Network, et al. v. Commonwealth*, 83 A.3d 901 (Pa. 2013) (plurality), our Commonwealth has a history of prioritizing resource extraction over the health of its citizens and the long-term preservation of its environment. By adding the Environmental Rights Amendment to the Pennsylvania Constitution, the people of Pennsylvania determined that their well-being and the well-being of future generations should never again be subordinate to the short-term economic benefits that bring with them short-sighted resource extraction practices like the ones that left us for years with "thousands of devastated treeless acres" and with mine fires that burn to this day. This obligation applies to all levels and branches of government, including the Department of Environmental Protection and the Environmental Quality Board.

As such, it is imperative that the proposed revisions to Chapter 78 and 78a are promptly adopted because they contain important improvements to the existing regulatory program that will better protect the public and environment. Among other things, the proposed changes:

- provide the opportunity for agencies in charge of "public resources," including playground owners and school districts, to review and comment on plans for oil and gas drilling operations that may impact public resources entrusted to them;
- eliminate the use of pits that have been shown to leak and cause soil and groundwater contamination for the storage of polluting substances such as brines, stimulation fluids, and production fluids;
- substitute the use of current best available technology, namely tanks, for the storage of brines, stimulation fluids and production fluids;
- improve the use of secondary containment to prevent on-site soil and groundwater contamination from spills;
- require registration and improve construction standards for well-development impoundments;
- require the closure or re-permitting of centralized impoundments, which have been shown to leak and cause groundwater contamination, under the same regulations that apply to all other residual waste storage impoundments in the Commonwealth;
- require disposal pits to comply with the same regulations that apply to all other residual waste disposal facilities in the Commonwealth;
- better address the reporting and remediation of on-site spills;
- enhance protection for streams from horizontal drilling for pipelines from unconventional well operations, which has caused numerous incidents of stream pollution;
- memorialize the standards and goals to prevent harm to streams from water withdrawals for unconventional well operations;
- affix responsibility for plugging abandoned wells that have been damaged by fracking; and

- provide clearer standards for remediation of drinking water supplies that have been contaminated by oil and gas operations.

These improvements, while moderate, are nonetheless necessary to better address potential impacts of natural gas drilling, and to enhance protection of the public and environment. While our organization would support a regulatory package that was more aggressive in some areas, and broader in others<sup>1</sup>, these proposed changes are unquestionably an improvement over the existing regulatory scheme. As such, we urge the Technical Advisory Board to fulfill its Constitutional duty by supporting these improvements.

Thank you for your consideration of these comments, and thank you for your work to ensure that all Pennsylvanians are able to realize the benefits of “clean air, pure water, and ... the preservation of the natural, scenic, historic and esthetic values of the environment.”

Sincerely,

/s/

Michael D. Helbing  
Staff Attorney

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<sup>1</sup> PennFuture has actively participated in the rulemaking process for the proposed Chapter 78 and 78a regulations. PennFuture submitted comments to the Department of Environmental Protection about draft regulations on March 14, 2014, and May 19, 2015. PennFuture refers you to those comments, which are part of the rulemaking record for this proceeding, for more detailed analysis about the proposed regulations, including suggestions for making the regulations more protective of the environment and public health.