

January 1, 2014

Kurt Klappkowski, Director, Planning and Program Management
Scott R. Perry, Deputy Secretary, Office of Oil and Gas Management
Pennsylvania Department of Environmental Protection
Rachel Carson Office Building
400 Market St, 16th Floor
Harrisburg, PA 17105

Cc: Chris Abruzzo, Secretary, Pennsylvania Department of Environmental Protection

Dear Mr. Klappkowski and Mr. Perry:

The undersigned Pennsylvania residents and interested organizations look forward to providing feedback during the public comment period and public hearings regarding the regulatory draft proposal amending 25 Pa. Code Chapter 78, Subpart C. We respectfully make the following requests for modification of the public participation process.

Need for Additional Public Hearing Locations

We recognize that DEP scheduled hearings in each DEP Region across the state. It seems that in planning the advertised public hearings, DEP attempted to identify central locations that could potentially accommodate multiple surrounding areas. However, we strongly urge the scheduling of additional public hearings in counties where oil and gas development is most prevalent and has had a significant impact. Currently, communities in 38 counties across the Commonwealth have shale gas development; yet hearings are currently scheduled only in seven, two of which do not have any drilling at all.

Additional hearings would allow residents living in communities directly affected by gas development to share their concerns and provide information relevant to determining measures needed to change and oversee industry practices. The Department must hear, gather, and give credence to the real-life impacts of waste storage, brine-spreading, pipeline development, and other issues addressed in the proposed Chapter 78 revisions. Otherwise, DEP risks the development of regulations on paper that do not in reality protect the environment and health.

In addition, topography and rural roads mean that citizens in heavily-drilled communities may have to travel relatively far to reach the current hearing locations. Many residents run family farms and small businesses that prevent them from traveling that far from home in the evening.

The final public hearing is scheduled for January 23, yet the deadline to submit comments is February 12. With this current schedule, there is an opening of two weeks where additional public hearings in these locations could be scheduled. There would be an even greater opportunity to schedule more hearings with an extended comment period, as discussed below.

We strongly encourage DEP to include—*as examples and at a minimum, with other locations also to be considered*—the following two additional locations in the hearing schedule.

Bradford County has more drilled unconventional gas wells than any other county in Pennsylvania. Development has surged since 2008, when there was only one active unconventional gas well in the county; today, there are well over 1,000. Bradford County citizens and local officials have direct

experience that is relevant to improving the regulation and management of oil and gas development throughout Pennsylvania. Between 2010 and 2012, DEP's investigations concluded that 13 cases of groundwater contamination were linked to unconventional gas well development activity. In 2010, the DEP determined that stray gas migration from an unconventional gas well resulted in methane leaks in the Susquehanna River and the drinking water wells of homes as much as two and a half miles away. As one of the earliest drilling locations, Bradford County is now experiencing a new phase of infrastructure development, particularly with regard to pipelines.

Importantly, a hearing in Bradford County would facilitate the participation of residents in heavily drilled neighboring Tioga County, which currently has 770 unconventional wells (most of which have been drilled just since 2010) and is even further away from currently scheduled hearing locations.

Butler County has seen a surge in gas development since the shale gas boom began and now has more unconventional wells drilled than any other county in the Northwest Region. The county is also slated to be a heavily developed drilling area in the coming years, particularly because of its proximity to infrastructure and gas liquids processing facilities being planned in nearby areas.

Butler County is also home to the Woodlands community, where many residents have experienced both water quality and quantity problems. Emerging research indicates that likely causes include the density of drilling, extensive reach of laterals, and potentially changes in the flow of the water table due to hydraulic fracturing. Given the widespread nature of problems already experienced and the large number of wells currently drilled or being planned, Butler County residents would benefit greatly from, and have much to contribute to, a hearing in closer proximity.

Need for an Extended Comment Period

Given the in-depth nature and importance of the Chapter 78 revisions, we also request that the comment period be extended to 120 days to allow sufficient time for the technical analysis and public review. This is in part necessary because the proposed revisions were issued just before the winter holiday season, and in part because an extended comment period would allow for greater participation from residents statewide who are unable to travel to hearings.

An extended comment period is also important in light of the recent Pennsylvania Supreme Court decision declaring portions of Act 13 unconstitutional. This ruling will have a bearing on such regulatory provisions as oil and gas well and facility setbacks and DEP's approach to evaluating the impact of proposed projects on public resources. The public and specific stakeholders engaged in the Chapter 78 process deserve additional time to understand and comment on linkages between proposed regulations and a legal decision that is of great importance to the Commonwealth.

Need for an Inclement Weather Plan with Alternate Hearing Dates

Greatly complicating the distance citizens will have to travel to the hearings is the potential for severe weather conditions (such as heavy snow and icy roads) that are typical for Pennsylvania in January and February. The DEP has not provided for an inclement weather plan in the Chapter 78 public participation process; as a result, if hearings are cancelled as a result of severe weather the public will be prevented from having a chance to participate in person. We request that the DEP develop and implement a plan for inclement weather that includes alternate dates for scheduled public hearings.

Need to Modify Requirements for Verbal Testimony Given at Hearings

Currently, the DEP is requiring those seeking to give verbal testimony at public hearings to contact the Environmental Quality Board via mail or phone at least one week in advance of the hearing in order to reserve a time. Those giving verbal testimony are also required to present the hearing chairperson with three copies of their testimony at the time of the hearing.

We request that the DEP modify this requirement in order to accommodate citizens who attend the hearing with verbal testimony but who did not contact the Board one week in advance. We request that the Board use a simple sign-in procedure at the beginning of the hearings that would allow for the orderly presentation of all remaining verbal testimony immediately after the pre-scheduled verbal testimony is completed.

Those who were unaware of the need to have three copies of their testimony should be provided up to a week after the meeting to provide the chairperson of the hearing and the Board with those copies. In addition, we strongly encourage the DEP to use a court stenographer and arrange for a separate audio recording of all hearings in order to facilitate the creation of a comprehensive public record of all testimony received.

Satisfying these requests would provide the opportunity for “people’s voices to be heard,” as Secretary Chris Abruzzo advocated for in DEP’s December 12, 2013 Press Release on the Chapter 78 regulatory revisions.

Thank you for your time and consideration. We look forward to your response, and of course the opportunity to participate in the public participation process.

Sincerely,

Dianne Arnold, Marcellus Outreach Butler, Butler County
Barbara Arrindell, Damascus Citizens for Sustainability, Wayne County
David Buck, Bradford County
Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network (statewide)
Sarah Caspar, Chester County
J. Stephen Cleghorn, PhD, Owner, Paradise Gardens and Farm, Jefferson County
Dr. Larysa Dyrszka, Sullivan County, NY
Julie Edgar, Organizer, Lehigh Valley Gas Truth, Lehigh County
Elaine Lapp Esch, Lancaster County
Lynda Farrell, Executive Director, Pipeline Safety Coalition, Chester County
Karen Feridun, Founder, Berks Gas Truth Berks County
Carol French, Bradford County
Trudy Gerlach, Bradford County
Deborah Goldberg, Managing Attorney, Earthjustice (national)
Carrie Ha, Coordinator, Fracking Truth Alliance, Lawrence and Mercer Counties
Bryn Hammarstrom, Tioga County
Tom Hart, Butler County
Laura H. Hewitt, Bradford County
Lily Mariah Hollister, Bradford County
Marilyn Hunt, Wetzel County, WV
Steve Hvozdoich, Marcellus Shale Campaign Coordinator, Clean Water Action (statewide)
Paul Karpich, Co-chair, Breathe Easy Susquehanna County

Susan Karty, President, Pennsylvania League of Women Voters (statewide)
Virginia Kellogg, Bradford County
Joanne Kilgour, Chapter Director, Sierra Club Pennsylvania Chapter (statewide)
Abby Kinchy, Associate Professor, Rensselaer Polytechnic Institute, and Bradford County
Carolyn Knapp, Bradford County
Lois Klotz, Bradford County
Jenny Lisak, Pennsylvania Alliance for Clean Water and Air, Jefferson County
Richard A. Martin, Coordinator, PA Forest Coalition (statewide)
Keith A. McDonough, Friends of South Fayette, Allegheny County
Daniel R. Natt, Bradford County
Shellie Northrup, Bradford County
Greg R. Perry, Bradford County
Julie T. Perry, Bradford County
Ann Pinca, Lebanon County
Joni Rabinowitz, Allegheny County
Raina Rippel, Director, Southwest Pennsylvania Environmental Health Project, Washington County
Rebecca Roter, Co-chair, Breathe Easy Susquehanna County
Sheila Russell, Bradford County
Bob Schmetzer, Chairman, Marcellus Awareness Committee, Beaver County
Vera Scroggins, Citizens for Clean Water, Susquehanna County
Briget Shields, Marcellus Protest, Allegheny County
Douglas Shields, Allegheny County
Diane Sipe, Marcellus Outreach Butler, Butler County
Kate Sinding, Senior Attorney, Natural Resources Defense Council (national)
Ron Slabe, Upper Burrell Citizens Against Marcellus Pollution, Westmoreland County
Wayne and Angel Smith, Bedford County
Nadia Steinzor, Eastern Program Coordinator, Earthworks (national)
Jay Sweeney, Chair, Green Party of Pennsylvania (statewide)
Victoria Switzer, Susquehanna County
Mark Szybist, Staff Attorney, Penn Future, Lycoming County
Betty Tatham, Vice President, League of Women Voters Pennsylvania (statewide)
Steven Todd, Dauphin County
Ruth Tonachel, Bradford County
John Trallo, Executive Committee, Shale Justice Coalition, Bradford County
Matt Walker, Community Outreach Director, Clean Air Council (statewide)
Diane Ward, Bradford County
Don Williams, Montgomery County