



January 26, 2016

**To: Members of the Environmental Quality Board (EQB)
Members of the Independent Regulatory Review Commission (IRRC)**

From: Davitt Woodwell, President and CEO, Pennsylvania Environmental Council

**Re: Final Rulemaking, Amendments to 25 Pa. Code Chapters 78 and 78a
Environmental Protection Performance Standards at Oil and Gas Well Sites**

The Pennsylvania Environmental Council (PEC) respectfully submits the following comments on the Final Rulemaking for Environmental Protection Performance Standards at Oil and Gas Well Sites (Final Rulemaking).

PEC has been extensively engaged in the development of what eventually became Act 13 of 2012, and resulting regulations of unconventional shale gas extraction that have led to this Final Rulemaking. We attended or participated in virtually every public meeting, webinar, workgroup, advisory board, legislative hearing, or other dialogue concerning the Final Rulemaking. Included as an attachment to these comments is a list of our primary public comments and testimony.

PEC strongly supports the Final Rulemaking, and we urge prompt approval by both EQB and IRRC. While our submitted comments speak to the specific merits of the Final Rulemaking's provisions, we are particularly compelled to defend the process utilized by the Department of Environmental Protection (Department) in reaching this regulatory package, especially as some have chosen to characterize the process as deficient or dishonest. Nothing could be further from the truth.

The Final Rulemaking stands on the most extensive and inclusive rulemaking process that we know of in DEP's history. While not a testament to efficiency, it has taken more than four years to get to where we are today. This rulemaking has involved two Governors, three Secretaries of the Department, three sessions of the General Assembly, 12 public hearings, two public comment periods, thousands of public comments, and dozens of

workgroup and advisory board meetings. These steps are fully identified in the Department's Executive Summary to the Final Rulemaking.

At every step in this rulemaking, the public, industry, local government, environmental and community interests, the General Assembly, and others have been actively engaged. This rulemaking has undergone more public review than any other environmental regulation in Pennsylvania's 45-year history of modern environmental programs.

Virtually every provision in the Final Rulemaking has received revisions as a result of input from the public and industry. Indeed, for better or worse, entire sections have been removed after repeated consultation and consideration with the Oil & Gas Technical Advisory Board. In addition, the Department has bifurcated the Final Rulemaking between Conventional and Unconventional Operations and the provisions applicable to Conventional Operations have been considerably reduced. Any assertion that the rulemaking has not been responsive to concerns of industry is simply wrong.

A variety of forces and issues show the critical need for getting this Final Rulemaking in place and in practice; these include not only the statutory overhaul of the Oil & Gas Act, but also extraordinary change in industry practices and impacts, continuing concerns about pollution legacy issues ultimately to be borne by the Commonwealth, and a variety of significant incidents that have occurred throughout our state.

Even though PEC could argue for further strengthening of the proposal, as we have been advocating for the duration of the public dialogue, we recognize that the citizens of the Commonwealth are far better served by having this rulemaking approved and enforced. While continuous improvement should always be the goal, that goal is predicated on actual implementation and enforcement.

As with any rulemaking, there will be disagreement between interested parties. It is the job of the Department to solicit and consider comments received, and, based on their own experience and the laws of the Commonwealth, promulgate regulations they believe reasonable and necessary for the protection of the environment. They have done that job.

The merits of this Final Rulemaking have been fully and publicly vetted; the need and purpose has been made abundantly clear. As trustees on behalf of all Pennsylvania citizens, it is the constitutional duty of the Department, EQB, IRRC, and all public bodies to protect the people and environment of the Commonwealth.

We urge you to approve the Final Rulemaking. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Woodwell", with a long, sweeping underline.

Davitt Woodwell, President and CEO
Pennsylvania Environmental Council

Attachment: Summary of PEC Comments and Testimony

Formal PEC Comments and Testimony on the Final Rulemaking

January 22, 2014 Public Hearing Comments

<http://pecpa.org/wp-content/uploads/John-Walliser-2014-EQB-comments.pdf>

March 14, 2014 Submitted Comments on Proposed Rulemaking

<http://pecpa.org/wp-content/uploads/EDF-Public-Comments-2014.pdf>

April 29, 2015 Public Hearing Comments

<http://pecpa.org/wp-content/uploads/PEC-CH78-Public-Hearing-Comments-April-20151.pdf>

May 19, 2015 Submitted Comments on Final Rulemaking

<http://pecpa.org/wp-content/uploads/Revised-rulemaking-comments-May-2015.pdf>