

Testimony

Submitted on behalf of the
Pennsylvania Independent Oil & Gas Association

**Public hearing on State Government Regulations: Potential Solutions to
Improving Oversight and Relieving Regulatory Burdens.**

**Before the:
House State Government Committee**

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State Capitol

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Chairman Metcalfe, Minority Chairman Bradford, and Committee members –

I am Jennifer Hoffman, Vice President for Environmental, Health, Safety, and Regulatory for Huntley & Huntley Energy Exploration (HHEX) and a member of the Pennsylvania Independent Oil and Gas Association (PIOGA). I thank you for allowing me to speak with you today regarding Pennsylvania regulatory issues and potential solutions, as specifically related to oil and gas development in Pennsylvania.

Of paramount importance to these issues are the Erosion and Sediment Control General Permit 2 (ESCGP2) and well permitting delays with which we struggle daily as an industry. The delays have critical negative impacts on our business models and our ability to attract and deploy capital, particularly in Southwest Pennsylvania.

While I firmly believe in the integrity and professionalism of the employees and leadership at the PADEP, the current regulatory complexity and administrative burden, with little additional environmental benefit, negatively impacts Pennsylvania's competitiveness with its neighboring states, as well as those states farther afield.

First, I would like to address the regulatory complexity, with a couple of examples.

Chapter 78a, which was finalized in October 2016, has imposed additional regulatory burdens on the industry, which significant price tags. The revised rules have additional new requirements including: 27 new electronic notifications; 24 new or revised forms; 3 new Technical Guidance Documents (TGD), plus 6 existing TGD codified in rulemaking; and 14 new or revised plans – and that is just for one regulatory package. The Department's initial cost estimate on the industry is between \$40 and \$70 million, and up to \$16 million annually. Industry's initial cost estimate is about a 30% increase in operational costs or \$2 million per well. Pennsylvania also supplements its regulatory framework extensively through Frequently Asked Questions that are posted on its website and through policy development, all of which add to the regulatory complexity for operators. I have been privileged to lead teams that have worked in a number of other states with

significant oil and gas development, and Pennsylvania has the distinction of being the state with the most regulatory complexity and uncertainty.

Second, I would like to discuss the ESCGP2, which was revised in 2012. What we have seen in the ensuing years is a dramatic increase in the review timeline, which is now at an all-time average high of 263 days in Southwest Regional Office PADEP; I will note that NCRO PADEP has a far more consistent timeframe of about 90 days. For an expedited permit, once which is prepared and certified by a professional engineer, a 14-day approval timeframe is contemplated by the Permit Decision Guarantee policy, which was implemented in late 2012. Often what we see is that the permits are not even logged into the system within the 14-day approval timeframe and reviews are not started for months after submission, due to the backlog. Once reviews begin, we often see that PADEP staff, many of whom are not licensed engineers, are re-designing erosion and sediment control plans that have been designed by licensed engineers with many years of experience. Obviously, the industry and the highly trained engineering consultants that we retain take issue with this activity. PADEP has stated that the quality of permit applications is an issue; however, the same consultant can submit a permit to Northcentral Regional Office and receive an approval within 90 days while in Southwest Regional Office, the permit is mired in multiple rounds of review and comment, many of which are based on personal preference as opposed to technical inadequacy. Regardless, industry and our consultants work to achieve higher levels of excellence with every permit submitted.

I believe that part of the underlying issue with permit timelines is the high level of complexity within the ESCGP2. The general permit application itself is 16 pages long with the final application consisting often of hundreds of pages of forms, narrative, drawings, and plans. This leads to uncertainty on the reviewers' part and disconnect within the agency regarding standardized review processes.

Likewise, drilling permits, which have a 32-day timeframe from the Permit Decision Guarantee, have skyrocketed to over 80 days and longer, particularly in Southwest Regional Office.

In contrast, Ohio Department of Natural Resources' horizontal well pad permits are routinely administratively reviewed within a week and reviewed in the field

and finalized within 30 days. West Virginia Department of Environmental Protection reviews erosion and sediment control plans within its horizontal well permit and has consistently had a track record of 90 days for a full permit review and approval. Ohio's drilling permits are reviewed and approved within 30 days or less for an expedited or non-urban drilling permit. One can easily see how a consistent and reasonable timeframe can allow operators to plan appropriately and create a path for certainty.

Defining solutions for this issue is complex and multi-faceted, as there may not be one underlying issue that needs to be resolved throughout PADEP. Certainly holding employees at all levels accountable for work products, with clear expectations and commitments, is appropriate in any business, including government. Second, the very concept of a general permit should reduce complexity and reduce permitting burdens, as it speaks to standardization. Standardized checklists and guidance should be used for reviewing any PADEP general permits, and the PADEP reviewers, industry, and consultants should be trained and re-trained accordingly. PADEP has started an ESCGP2 pilot program in its SWRO to address this very issue, with initial promising results. Perhaps a centralized permitting function within the Oil & Gas program would resolve the issues related to disconnection of regional offices and Central Office, as well as management issues. If the reviewers cannot perform their work in a timely manner, perhaps the Department should consider a third-party permitting option, allowing an outside consultant to review the permit application and materials and make a recommendation for approval or denial, with PADEP rightly holding the final decision. We welcome the opportunity to work with the legislature and the regulators on solutions that protect the environment and the people of the Commonwealth while allowing for prudent development of this resource in a timely and consistent manner.

I thank the Committee on behalf of PIOGA for allowing me to address these critical issues and am happy to answer questions.