

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
625 BROADWAY
ALBANY, NEW YORK 12233-1550

In the Matter

- of -

Proposed Part 203 (Oil and Natural Gas Sector) and Proposed
Revisions to Part 200 (General Provisions) of Title 6 of the
Official Compilation of Codes, Rules and Regulations of the State
of New York

- by the -

**NEW YORK STATE DEPARTMENT
OF ENVIRONMENTAL CONSERVATION.**

HEARING REPORT

by

Lara Q. Olivieri

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Administrative Law Judge

September 30, 2021

HEARING REPORT

The New York State Department of Environmental Conservation (“Department” or “DEC”) scheduled hearings to receive public comment on the proposed addition of Part 203 and revisions to Part 200 to the Department’s regulations at Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (“6 NYCRR”).

The proposed Part 203 applies to any entity that owns or operates a subject source in the oil and natural gas sector. The primary need for this rulemaking is to protect the health and welfare of New York residents and resources by 1) reducing methane, a greenhouse gas, in support of the goals of the Climate Leadership and Community Protection Act; 2) reducing associated volatile organic compounds, an ozone precursor; and 3) fulfilling the requirements of the United States Environmental Protection Agency’s (EPA) 2016 Control Techniques Guidelines for the oil and gas industry. The Department proposes to submit Part 203 to the EPA as a revision to the State Implementation Plan (SIP) for New York State.

The Department’s Division of Air Resources (“DAR”) requested that the Department’s Office of Hearings and Mediation Services (“OHMS”) assign an administrative law judge (“ALJ”) to conduct the legislative hearing sessions virtually, using the Webex electronic webcast platform, and to provide a report summarizing the comments.

Prior to the hearings, DAR staff provided OHMS with a copy of the Department’s notice of proposed rulemaking and proof of publication of this notice. The notice appeared in the May 12, 2021, edition of the Environmental Notice Bulletin. Notice also appeared in the May 12, 2021, edition of the New York State Register.

The Department received written comments on the rulemaking until 5:00 p.m. on Monday, July 26, 2021.

The public comment hearings were held on July 20, 2021, at 2:00 p.m. and 6:00 p.m., as noticed before ALJ Lara Q. Olivieri. The hearings began with a presentation by Ona Papageorgio from DAR. Thereafter, nineteen members of the public offered oral statements, ten at the afternoon session and nine at the evening session.

July 20, 2021 2:00 p.m. session

The first speaker in the afternoon session was Ellen Weininger, a director of outreach at Grassroots Environmental Education. Ms. Weininger requested that DEC promulgate the most rigorous rules possible to reduce oil and gas sector greenhouse gas emissions and toxic pollution. She stated that COVID-19 amplifies the role our environment has on medical conditions, as air

pollution can lead people to become more susceptible to this virus. Ms. Weininger urged State agencies to transition away from fossil fuels and its infrastructure to meet New York's climate mandates.

The next speaker was Matt Walker, an advocacy director for Clean Air Council. Mr. Walker stated that Clean Air Council appreciates DEC incorporating recommendations from environmental and community groups into the draft ruling. Mr. Walker offered further recommendations for the proposed regulations in order to meet New York's emission reduction targets and climate goals, as follows: 1) require monthly leak detection and repair records for all equipment; 2) define what constitutes a leak; 3) apply strict deadlines for repair times on all infrastructure; 4) require full capture requirements for scheduled pipeline blowdown gas with no venting to the atmosphere; 5) lower the blowdown reporting and notification thresholds for both scheduled and unscheduled blowdowns from 10,000 cubic feet to 2,500 cubic feet; 6) require leak mitigation measures during the 18-month wet seal to dry seal conversion timeframe; 7) develop an inspection and auditing plan; 8) incorporate Statewide best available technology into the stack emission thresholds; 9) require higher storage vessel vapor control efficiencies and lower the volatile organic compound (VOC) threshold; 10) strengthen community notification requirements for planned and unplanned blowdowns; 11) provide more information on DEC's justification to reject continuous emissions technology on the basis of technical availability; 12) increase the reporting requirements frequency for pigging activities; and 13) require zero bleed pneumatic controllers for new facilities, using discretion for this requirement in all facilities. The Clean Air Council intends to submit more detailed technical comments.

The next speaker was Amy Rosmarin. Ms. Rosmarin stated that emissions from gas infrastructure are linked to nineteen to twenty major categories of disease and experts also see a link between exposure to air pollution and the severity of illness from COVID-19. She stated that those living within a few miles of emitting facilities are most at risk of sickness and hundreds of thousands of people in New York State live within one half mile from oil and gas facilities, and hundreds of thousands a short distance further. She continued to state that given the number of people impacted and the volume and toxicity of the chemicals released by these emission facilities, the emissions pose a significant threat to public health. Ms. Rosmarin urged DEC to require real-time and continuous air monitoring available to the public, and to also require compressor stations and other emitting facilities to install vapor control systems.

Lisa Harrison was the next speaker. She asked that DEC respond to the climate emergency by requiring the most rigorous requirements to surpass the Climate Leadership and Community Protection Act. Ms. Harrison discussed the Millennium Pipeline project and how numerous people were sick after blowdowns occurred. Ms. Harrison urged DEC to require publicly accessible real-time and continuous emission monitoring systems.

The next speaker was Jacquelyn Dreschler. Ms. Dreschler expressed disappointment that New York has not regulated the oil and gas industry more stringently than the federal government. Ms. Dreschler stated that vented and uncaptured emissions blowdowns from pipeline power plants and compressor stations are putting New York at risk. She referenced that

in past comments, she requested the monthly detection of gas well leaks, compressor stations, power plants and pigging stations. She also requested that 1) repairs be undertaken within 5 days of detection, not 30 days, while severe leaks should be repaired much sooner; 2) operators to inform local health departments of planned and unplanned blowdowns; 3) the efficiency of vapor control devices are to be upgraded to 98 percent; 4) strict recordkeeping should be required; 5) collection of vapors on tanks; 6) a ban placed on tank venting; 7) tanks be leak free; 8) lower thresholds as to what constitutes a leak; and 9) continuous emission detection systems in real-time and made publicly accessible. Ms. Dreschler provided certain health statistics for Rockland County and further supported the comments provided by Ellen Weininger.

John Sullivan was the next speaker. Mr. Sullivan urged DEC to further strengthen the safeguards in the proposed rules by requiring a minimum of 2,500 cubic feet for notification, continuous emissions monitoring systems and gas capture technology for all planned blowdowns. Mr. Sullivan also urged a 5-day repair attempt be adopted rather than a 30-day standard. He summarized by asking for the adoption of regulations as strict as possible with exceptions only for emergencies and a full accounting of those emergencies. He also stated that he supported the recommendations of Clean Air Council.

The next speaker was Joel Kupferman, head of the Environmental Justice Initiative and co-chair of the Environmental Justice Committee of the National Lawyers Guild. Mr. Kupferman explained that monitoring should be live and current and shared with local emergency planning committees, fire departments and hospitals. He also stated that there should be more coordination with the State health department. Mr. Kupferman expressed his concern with the lag in reporting, lack of punctuality and accuracy. He went on to state that DEC needs to demand online monitoring now that the technology is available.

Sandra Steingraber was the next speaker. Ms. Steingraber is a biologist who studies public health and serves as the senior scientist at the Science and Environmental Health Network. She is also a co-founder of Concerned Health Professionals of New York. Ms. Steingraber believes we are in a climate emergency and supports the comments made by Earthworks and Clean Air Council. Ms. Steingraber stated that real-time monitoring is needed, and that DEC needs to strengthen the proposed rules by reducing emission thresholds and lower the lowest achievable emission rates at all new and existing oil and gas infrastructure facilities.

The next speaker was Mary Finneran. Ms. Finneran expressed her concern with the need to monitor pipelines, stating that they are one of the primary causes of leaks and emissions. She also stated that expansions should not be allowed for compressor stations and that the proposed rules should be applied to private industries as well, such as power plants used for bitcoin mining.

The final speaker of the afternoon session was Nadia Steinzor, a policy analyst with Earthworks. Ms. Steinzor stated that she is in full support of Clean Air Council's technical comments. She stated that DEC must go further and strengthen the proposed rules in order to more effectively reduce pollution, and require the following: 1) monthly leak detection repair on

all equipment covered by the rules; 2) replace the 30-day requirement for repair times to 14 days at most, depending on the leak size; 3) operators to capture emissions from compressor stations and blowdowns, lower the threshold for gas capture and allowed emissions; 4) operators to adopt technologies to reduce emissions from pigging; 5) increase vapor control efficiency of tanks; 6) zero bleed pneumatic controllers; and 7) air emissions reporting on a regular basis.

July 20, 2021 6:00 p.m. session

The first speaker in the evening session was Ruth Walter, Westchester County legislator for District 15, and chairperson of the Environment and Health Committee. Ms. Walter expressed her appreciation for the steps taken through the proposed rulemaking, but also cautioned that we need stricter guidelines to reduce greenhouse gases. She asked that DEC consider mandating leak detection on all equipment, requiring stricter deadlines for repair times and infrastructure leaks, quantitative analyses of leak concentrations, and utilizing clear and accessible data on DEC's website regarding all air and water emissions data collected from operators.

The next speaker was Matt Salton, an environmental action associate at Hudson River Clearwater. Mr. Salton asked that the following be required through the proposed regulation: 1) the lowest achievable emissions rate technology be used at all existing oil and gas infrastructure facilities; 2) compliance by non-combustion emission sources and also those considered exempt by regulation; 3) compressor stations to be maintained at pipeline pressure; and 4) that continuous emissions monitoring systems for particulate matters 2.5 and VOC's at all compressor stations be accessible to the public.

The next speaker was Catherine Skopic from the Sierra Club, New York City group. Ms. Skopic discussed family friends who spent time in upstate New York. They became sick and later learned that a compressor station was venting and attributed their sickness to the venting. Ms. Skopic also brought up other various issues including a wetland in Staten Island, a matter pending with the Office of Renewable Energy Siting, Indian Point, and bitcoin mining.

Michele Lee spoke next and announced herself as working with various environmental groups in New York. Ms. Lee stated that she was in support of the rulemaking and the focus of reduction in greenhouse gas emissions in the State of New York. She requested DEC to consider material public health and environmental impact in a holistic manner when implementing rulemakings, while not using misleading or confusing statements including their press releases.

Susan Van Dolsen spoke next and lives in Westchester County. Ms. Van Dolsen stated that she works with Clean Air Council and Earthworks and supports the technical comments they will be submitting. She stated that New York should be rejecting all permits for pending gas infrastructure projects to comply with the Climate Leadership and Community Protection Act

and to lead the nation with the most stringent regulations. Ms. Van Dolsen stated that impacts from existing fossil fuel compressor stations disproportionately affect underserved communities and DEC must address environmental racism. She stated the proposed rule should be strengthened by: 1) capturing all emissions from scheduled pipeline blowdowns and pigging with no venting to the atmosphere; 2) requiring notification of unplanned blowdowns to all surrounding communities within 30 minutes; 3) require publicly accessible, continuous and real-time fracked gas air emissions with monitoring installed at leak-prone facilities, including compressor stations; 4) require operators to perform quantitative analyses of leak concentrations using optical gas imaging; 5) define what constitutes a leak; and 6) ensure reporting requirements for operators and penalties for noncompliance. Ms. Van Dolsen stated that Clean Air Council and Earthworks will be submitting more specific recommendations.

The next speaker was Nivo Rovedo. Mr. Rovedo opened his statement by thanking DEC for proposing to tighten restrictions on the oil and gas industry and their air pollution. He asked DEC to consider the following points: 1) strengthen the proposed rules by requiring reduced emission thresholds to conform to the reduction milestones mandated by New York's climate law; 2) require the lowest achievable emissions rate technology at all new and existing oil and gas infrastructure facilities; 3) mandate compressor stations to be maintained at pipeline pressure and 4) require publicly accessible real-time and continuous emissions monitoring systems.

The next speaker was Pramilla Malik, chairperson of Protect Orange County. Ms. Malik stated that we cannot reward companies that evade the regulations, and those that do so should have their permits rescinded. She stated that Protect Orange County is in support of the comments offered by Clean Air Council and adds the following recommendations: 1) facilities should be required to have infrared flare cameras in order to detect leaks and give visual data in real-time to surrounding communities; and 2) facilities should be required to have continuous and real-time emissions monitoring.

The next speaker was Suzannah Glidden. Ms. Glidden insisted that all scheduled blowdown gas emissions from compressor stations should be captured by feeding the gas back into lower pressure piping rather than released into the air. For unplanned, emergency blowdowns, Ms. Glidden stated that we must have notification with 30 minutes to DEC, the host town of the emitting source and also all surrounding town officials in order to forward the information to residents. She also went on to state that we need publicly accessible, continuous, and real-time frack gas air emissions monitoring for methane, VOC's, and particulate matter 2.5 installed at leak-prone facilities including compressor stations. Ms. Glidden also suggested DEC use EPA's Natural Gas Star program for a framework for oil and gas operations to voluntarily implement cost-effective and methane-reducing technologies and practices. Ms. Glidden urged DEC to enforce the regulations with strong and serious penalties. Finally, she endorsed Clean Air Council's technical comments.

The final speaker of the evening session was Ann Finneran. Ms. Finneran expressed her support of the other speakers and the comments made by Clean Air Council.

There being no further speakers, the hearing concluded.