PENNSYLVANIA INDEPENDENT PETROLEUM PRODUCERS ASSOCIATION, INC.

PO Box 103, Bradford, PA 16701-0103
1 Longfellow Ave., Bradford, PA 16701-1715

(814) 368-5395-office (814) 368-2283- fax

pipp1985@verizon.net

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VIA eCOMMENT
Secretary Patrick McDonnell
Pennsylvania Department of Environmental Protection
Rachel Carson Building, 400 Market Street
Harrisburg, PA 17101

Re: Draft Advisory Committee Guidelines
Comments of the Pennsylvania Independent Petroleum Producers Association, Inc.
Department of Environmental Protection Document No. 012-1920-002

Dear Secretary McDonnell:

Please accept the comments of the Pennsylvania Independent Petroleum Producers Association to the Draft Advisory Committee Guidelines.

The Pennsylvania Independent Petroleum Producers Association (PIPP) has been the voice for small, independent oil and natural gas producers in northwestern Pennsylvania since 1985. Our nonprofit association consists of over 350 independent producers, supply companies, industry personnel and supporters who have been responsibly developing Pennsylvania's shallow oil and natural gas reserves for generations. The vast majority of our members are small, family-run businesses who depend on the modest income derived from the conventional extraction of oil and gas from new and legacy wells to help supplement their incomes and feed their families.

We have carefully reviewed the Draft Advisory Committee Guidelines and adopt the excellent comments submitted by Mr. Arthur Stewart, Secretary of the Pennsylvania Grade Crude Oil Coalition (PGCC) and Chairman of the Pennsylvania Grade Crude Development Advisory Council (CDAC). We write separately, however, to emphasize one important point as it pertains to the conventional oil and gas industry.

Section V(A) of the draft guidelines, entitled Agenda Development, states that "[t]he development of the agenda for an advisory committee meeting will depend in large part on the extent to which DEP has draft policies, technical guidance, regulations or other documents available for review by the committee." This provision is problematic because it suggests that the Department will only consult with an advisory committee *after* it has prepared draft policies,

technical guidance, regulations or other documents available for review. In our view, this process of developing regulations *first* and *then* presenting them to advisory committees has been the single biggest reason for the historic disconnect between the Department and the conventional oil and gas industry prior to formation of the CDAC. The Department need look no further than its efforts to amend its Chapter 78 regulations for conventional oil and gas producers as proof that this approach does not work. The General Assembly -- with the approval of the Governor -- has twice enacted legislation to halt the Department from pushing its draft of the Chapter 78 regulations because it began this process with a pre-conceived notion of the problems and the solutions before meaningful engagement with the conventional industry. As it turned out, the Department's pre-conceived notion -- that the solutions developed in its Chapter 78a regulations to address the recent proliferation of billion-dollar corporations engaged in unconventional oil and gas well development were equally suited (with minor changes) to the conventional oil and gas industry that has been in operation in this Commonwealth since 1859 -- turned out to be dead wrong.

We believe that the better first step is for the Department and the regulated community to sit down and discuss the problems that the Department perceives are not being adequately addressed by the existing regulations -- *prior* to the development of new language. Indeed, this approach is codified in the 2012 Oil and Gas Act, which states that the Department shall consult with the Oil and Gas Technical Advisory Board in the "formation, drafting, and presentation stages of all regulations of a technical nature promulgated under this chapter." 58 Pa.C.S. § 3226(d). It is also consistent with the duties of the CDAC. 58 Pa.C.S. § 1204(a)(2)-(4), (6)-(10). This approach would allow the parties to explore certain preliminary questions, such as: (1) Are the problems that the Department perceives exist with the existing regulations actually problems at all; (2) Can the regulated community address these problems on its own without the need for regulatory changes; (3) If not, can the Department address these problems through increased enforcement of its existing regulations. This approach will also build upon the new cooperative relationship that the Department and the conventional industry have worked so hard to create and avoid the natural tendency to defend one's written work from attack once it has been drafted.

Thank you for your consideration.

Respectfully submitted

Mark Cline

Mark Cline
President

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