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Independent Oil & Gas Association of Pennsylvania

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November 30, 2009

Environmental Quality Board  
PO Box 8477  
Harrisburg, PA 17105-8447

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DEC - 7 REC'D

INDEPENDENT REGULATORY  
REVIEW COMMISSION

**RE: Erosion and Sediment Control and Stormwater Management regulations in 25 Pennsylvania Code Chapter 102**

The Independent Oil and Gas Association of PA is submitting these comments in reference to the PA DEP's proposed revisions to the Erosion and Sediment Control and Stormwater Management regulations in 25 Pennsylvania Code Chapter 102.

Pennsylvania currently has extensive requirements for controlling accelerated erosion. These requirements have been effective. The newly proposed regulations greatly expand the existing erosion and sedimentation ("E&S") regulations and add several items not directly related to minimizing accelerated erosion, including, post-construction stormwater management requirements, stormwater runoff restrictions, and riparian forest buffer requirements. No justification or explanation has been given for this gross expansion.

**Comments on Proposed Rulemaking:**

Expansion of existing requirements for E&S control

Existing definitions have been revised in a way that would greatly expand the scope of Chapter 102. The definition of BMP's is proposed to add stormwater management requirements, before, during *and* after earth disturbance. There is no need for these additional controls for restored well sites given the lack of impervious areas on these sites.

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### Addition of requirements for riparian buffers

In most situations, an oil and gas operator only leases the land. The permanent landowner is the one most affected by forest buffers and would have to agree to the conditions of any permit in this regard. Property owners will be extremely reluctant to permit any oil and gas activity on their properties once they realize the mandates and restrictions associated with this type of relationship. The additional requirements will dramatically decrease the industry's ability to develop this state's natural energy resource.

### Permit by rule

As proposed, the permit-by-rule is so limited, time consuming and complex that it will be of no value to the oil and gas industry.

### Post-Construction stormwater management requirements

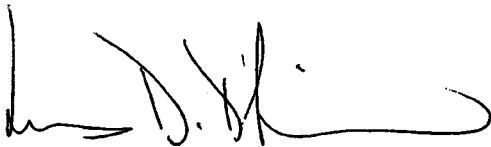
Post-construction stormwater management ("PCSM") requirements are unnecessary for the oil and gas industry because the relevant construction activities differ markedly from other types of development and construction sites. The Oil and Gas Act and regulations at 25 Pa Code Chapter 78 establish a comprehensive program with requirements for well site restoration. There is no need to expand this existing program. Restored sites cover only a small area; there is at most an insignificant difference in runoff from pre to post construction. Earth disturbance activity where the site is restored to pre-construction runoff levels should not be subject to PCSM requirements.

### Temporary stabilization

Temporary stabilization of a site where a cessation of earth disturbance activity will exceed three days is simply not workable. As mentioned above, natural gas-related construction sites are already required to implement and maintain effective BMP's. This new requirement, for example, would require seeding or mulching before long holiday weekends *in addition* to implementing and maintaining BMP's at the site. This would have no benefit since the site is already protected by the BMP's.

IOGA greatly appreciates the opportunity to provide comments on these proposed regulations that would have a significant impact on our industry.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis D. D'Amico". The signature is fluid and cursive, with a long horizontal stroke at the end.

Louis D. D'Amico,  
Executive Director

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Chambers, Laura M.

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**From:** Debbie Salinas [debbie@iogapa.org]  
**Sent:** Monday, November 30, 2009 3:51 PM  
**To:** EP, RegComments  
**Subject:** Comments - PA Code Chapter 102  
**Importance:** High

INDEPENDENT REGULATORY  
REVIEW COMMISSION

*Thank you for the opportunity to comment on the above referenced PA Code Chapter 102. Our comments are attached in two different formats for your convenience.*

**Lou D'Amico**

Executive Director

 **Independent Oil & Gas Association of Pennsylvania**

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