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INDEPENDENT REGULATORY  
REVIEW COMMISSION

January 22, 2014

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724-672-4800  
Fax: 724-672-4801

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DEP Policy Office

Environmental Quality Board  
P. O. Box 8477  
Harrisburg, PA 17105-8477

**Re: Proposed rulemaking on 25 PA Code Ch. 78, Subpart C – Environmental Protection Performance Standards at Oil and Gas Well Sites**

Dear Board Members:

We are writing in reference to the Environmental Quality Board (EQB) adopting the revisions proposed by the Pennsylvania Department of Environmental Protection (PADEP) to 25 Pa Code Chapter 78 "Oil and Gas Wells." As a consultant, our company and its approximately 75 Pennsylvania employees have firsthand experience with the extraordinary efforts made by Pennsylvania's oil and gas industry to be good stewards to the environment and good neighbors to the communities where we live and work. Based upon those experiences, we are concerned that sufficient justification for cost vs benefits as it relates to real-world environmental protections was evaluated. We believe the proposed rule will cause economic burden to Pennsylvania's oil and gas industry and our communities. We ask that you vote against finalization of this rulemaking in its current form.

Some specific concerns with this proposal are included below:

**1. The regulation does not meet the requirements of Executive Order No. 1996-1 or departmental policy.**

Under the 1996 executive order and DEP policy, regulations must address a "compelling public interest" and "definable public health, safety or environmental risks"; costs of regulations cannot outweigh the benefits; viable non-regulatory alternatives must be explored and are preferred over regulation; and regulations "shall not hamper Pennsylvania's ability to compete effectively with other states."

The Department's proposed revisions include new obligations that would increase operational costs and complexity without clear justification or environmental necessity. New application requirements will require consultation with agencies such as the Department of Conservation and Natural Resources, the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission regarding impacts to public resources and to obtain comments and recommendations from those agencies about imposing conditions in individual well permits. The permit requirement is not authorized under Act 13 or any other law, and will likely cause permitting delays and increased costs of field surveys and mitigation measures.

Other proposed provisions where costs are likely to outweigh benefits include the requirement to identify all abandoned or orphan wells within 1,000 feet of the well bore and along the entire length of horizontal legs; monitoring these abandoned or orphan wells for "any change" and plugging them if

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altered" by hydraulic fracturing; removal of all underground or partially buried storage tanks used to store brine or other production fluids; requirements for freshwater and flowback impoundments that are more stringent than those for hazardous waste impoundments; reporting and remediation requirements that substantially increase the time and costs for addressing small spills; and gathering line requirements more stringent than those imposed on pipelines used by any other industry.

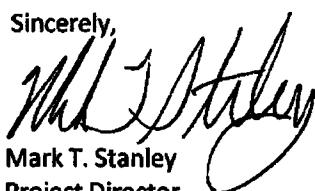
## 2. DEP has not conducted the required small business review.

In June 2012, the General Assembly amended the Regulatory Review Act to recognize that small businesses are critical to Pennsylvania's economy and that uniform regulatory and reporting requirements can impose unnecessary and disproportionately burdensome demands on small businesses that have limited resources. As a result, in any new rule DEP must consider creating less stringent compliance, reporting and performance standards, along with exemptions when appropriate, for small businesses.

It was unclear if the department incorporated these mandatory considerations in the proposed regulations. The analysis must be part of the proposed rules so that small businesses and the public have the opportunity to review and comment on all proposed accommodations.

In closing, we ask the Environmental Quality Board to reject this rulemaking as currently proposed.

Sincerely,



Mark T. Stanley  
Project Director  
CME Management LLC  
General Partner of CME Engineering LP

Cc: Hon. Timothy Krieger  
Hon. Carl Walker Metzgar  
Senator Richard Kasunic  
Senator Kim Ward  
Congressman Tim Murphy  
Congressman Keith Rothfus

Email: [info@pioga.org](mailto:info@pioga.org).  
[RegComments@pa.gov](mailto:RegComments@pa.gov)