Chevron

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RECEIVED

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Independent Regulatory
Review Commission

Honorable Patrick McDonnell
DEP Secretary & EQB Chairperson
Environmental Quality Board
P.O. Box 8477
Rachel Carson State Office Building
16th Floor
400 Market Street
Harrisburg, PA 17101-2301

Re: Chevron Appalachia, LLC's Comments to the Unconventional Well Permit Application Fee Amendments Proposed Rulemaking
via electronic submission to eComment@pa.gov

Dear Secretary McDonnell:

Chevron Appalachia, LLC ("Chevron"), headquartered in Coraopolis, Pennsylvania, manages natural gas assets in the Appalachian region, which, is home to some of North America's largest and richest sources of natural gas from shale. The Marcellus Shale and Utica Shale are primarily located in southwestern Pennsylvania, eastern Ohio and the West Virginia panhandle, where Chevron holds ~400,000 net acres of Marcellus Shale and ~300,000 net acres of Utica Shale.

Chevron Appalachia, LLC. (Chevron) appreciates the opportunity to offer comments regarding the Department of Environmental Protection's (DEP or Department) proposal to increase the application fee for unconventional well permits. We recognize the imperative for the Commonwealth to maintain a fiscally healthy oil and gas permitting, inspection and regulatory program.

We are not convinced that the proposed rulemaking's programmatic allocations justify increasing the fee to $12,500 from $5,000 and do not see a need to increase complements in every instance articulated. Nonetheless, Chevron endorses the proposed rulemaking for the purpose of meeting the DEP's commitment to timely issuance of permits in accordance with the Permit Decision Guarantee – one of the purported goals of this rulemaking. Chevron offers the following additional comments and questions regarding the rulemaking.

DEP acknowledges there is currently a backlog of 224 well permits in the Southwest District Office and 148 in the Northwest District Office. Those numbers may even underestimate the backlog because they do not include applications that the Department takes "off the clock" by issuing unnecessary comment letters. Therefore, Chevron recommends that the Department channel its efforts, new revenue, and new staff positions into permitting and inspections.

In contrast to the permit backlog, there is already a steady flow of rulemakings, guidance documents and policy statements from the Department, even in the absence of new legislative mandates. We question the necessity to increase the Bureau of Policy and Program Development's compliment and oppose increasing its staffing levels.

With respect to permit reviews, we also recommend that the Department re-emphasize the procedural principles espoused by the former "Pittsburgh 100" program developed and endorsed by the Southwest District Office but recently discontinued. Particularly, the Department can streamline the permit approval process by: (i) immediately rejecting applications that have obvious and significant inconsistencies, (ii) efficiently using phone calls or emails to get answers to the reviewer's questions rather than generating comment letters, and (iii) avoiding instances where reviewers question or reject the sound engineering judgement of the applicant's registered professional engineer. These simple principles, combined with prescribed timelines for comment resolution, helped support an efficient review process during the "Pittsburgh 100" pilot project. While the Permit Decision Guarantee (PDG) process adopts shorter review times than the "Pittsburgh 100", the PDG's built in mechanism for going "off the clock" by the issuance of a comment letter could result in longer average review times.

We are also concerned that the Department is relying too heavily on the electronic well permitting system as a panacea to its permitting problems. Historically, the Department has not had resounding success when implementing, upgrading or relying on technology to address issues. For example, implementation of e-Well for well permitting was cited by Department staff as one of the contributing factors for the significant uptick in the well permit review times that occurred during 2016-17. Permits need to be reviewed and approved by well-trained and supported people, even if workflow is computerized. That is why we recommend that the department allocate new staffing to permitting rather than BPPD – permitting is the core issue the Department faces.

While some public officials continue to propagate a false narrative about the unconventional gas industry "not paying its fair share," this sector has almost exclusively funded the oil and gas program. Here, any notion of equity is absent. In this rulemaking, the Department is proposing a 150% increase to the permit fee for the unconventional industry while not even symbolically increasing the fee for conventional oil and gas permits, even though conventional permits and compliance evaluation account for approximately 40% of the Department's workload. Paying almost 99% to run the permitting program while contributing only 60% of the workload is hardly "not paying a fair share." We hope the Department explains our endorsement of this rulemaking, and the disproportionate burden on the unconventional oil and gas industry, to the rest of the administration.

Last, we recommend that the Department reach out to stakeholders to seek a more sustainable method for funding the program and that the Department actively advocate for permit reforms, such as extending the length of time a permit is valid to five years. Reliance on permit fees is an inelastic source of funding and should be changed.

Again, Chevron appreciates the opportunity to comment on this proposed rulemaking. Should you have any questions, please feel free to contact me at 412-865-2487.

Sincerely,

Chad Eisenman
Legislative and Regulatory Advisor