



November 14, 2017

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Secretary Patrick
McDonnell, Ex-officio

Laura Edinger
Regulatory Coordinator
Policy Office
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17105

Re: Policy for Development and Publication of Technical Guidance (012-0900-001)

Dear Mrs. Edinger:

The Citizens Advisory Council (“CAC” or “Council”) was established pursuant to Sections 448(p) and 1922-A of the Administrative Code of 1929, as amended by Act No. 1970-275 and Act No. 2016-07, 71 P.S. §§ 158(p) and 510-22. Pursuant to Section 1922-A of the Administrative Code of 1929, the CAC is charged, in part, to advise the Department of Environmental Protection (“DEP” or “Department”) and make recommendations to help improve the work of the Department. As part of the CAC’s overview of the Department’s work, Council may make official comments on policies established by DEP.

The Department recently updated its Policy for Development and Publication of Technical Guidance and published the draft Document Number 012-0900-001 on DEP’s eComment page. The CAC thanks the Department for reviewing this policy document and allowing Council and the public the opportunity to provide comments on its guidelines. Council supports the Department’s efforts to provide greater clarification of the purpose and intent of technical guidance documents, as well as an explanation of the comment process for such documents.

According to Section VI. (A)(1) and (2) on Page 4 of the policy, the Department may rescind or withdraw technical guidance documents if deemed no longer necessary. The Department should ensure that notification of such recession or withdrawal be accompanied by some notice as a way to provide transparency. If possible, the Department **may** want to allow for public comment prior to recession or withdrawal to ensure the document is no longer useful.

Additionally, the CAC would like further clarification on the Department’s process for determining when the use and/or creation of a Standard Operating Procedure replaces a more open and transparent process, such as in the case of Technical Guidance. Council believes it is imperative for the Department to foster the perception of consistency for the regulated community. Such things as penalty calculations

and enforcement should be made public and could help to facilitate the resolution of enforcement matters by allowing citizen's and the regulated community to have a greater understanding of the Department's approach.

The CAC would like to thank the Department once again for considering the recommendations of Council and updating the Policy for Development and Publication of Technical Guidance to ensure participation in the Department's development of regulations, policies, procedures, standards, and technical guidance documents. Please feel free to contact Lee Ann H. Murray, Esq., Executive Director for the Citizens Advisory Council at 717-787-8171 or leemurray@pa.gov if you have any further questions or concerns.

Sincerely,



Donald S. Welsh, Chair
Citizens Advisory Council

cc: Lee Ann H. Murray
Executive Director
Citizen Advisory Council