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Original: 2288

November 17, 2004

Robert E. Nyce, Executive Director
IRRC
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

Dear Mr. Nyce:

I write to you again to express my opposition to No. 2288 Department of Health #10-155: Recreational Swimming Establishment Lifeguard Requirements.

As you know, on November 7, 2002 I sent a letter to IRRC noting my opposition and that of the Palmerton Memorial Park Association (PMPA) regarding the Department of Health proposed regulation #10-155. I am enclosing a copy my letter and Larry Arner, PMPA Pool Manager, which notes our original concerns.

After reviewing the department's revisions, I believe the final form regulation still does not provide for reasonable accommodation to PMPA. The regulation will have a negative impact on a community pool that serves a small rural municipality of about 5,000 people.

The department's rulemaking will require additional staffing based on a pool's square feet of water surface. The Palmerton pool is a unique facility with large dimensions. 58 years ago the pool was built as a memorial to the men and women who served in World War II. Finances for the pool were secured from donations from members of the community. One of the biggest contributors was the New Jersey Zinc Company, which donated \$75,000 in 1947 - a significant amount of money during that time.

The community and the company went to great lengths to have a swimming and recreational facility that was considered to be state-of-the-art facility. Hence the square footage of the Palmerton pool is out the ordinary for a small community. Therefore, the department's square footage requirement would place an undue financial hardship: PMPA has 20,250 square feet of water surface; it is 90 feet wide by 225 feet in length.

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Based on the Department of Health's guidelines, PMPA would have to increase work hours from 1862 to 2793 hours per week. PMPA estimates that work hours will increase from a 38 hour work week to a 58 hour work week. This further complicates working schedules because many lifeguards are high school students and child labor laws will now be a factor. All in all, the increase in work hours would cost approximately \$14,000. PMPA cannot absorb the cost and cannot increase membership fees to offset this cost.

Please know that I fully understand that safety measures such as lifeguard requirements are necessary and I do not want to undermine the good works of the department. Nonetheless, I would like to point out that in all the 58 years that the Palmerton pool has been in operation there have no drowning deaths.

Because of the new rulemaking I do not want to jeopardize PMPA operations which could very well lead them to close their operations. With this in mind, I would like to request IRRC for a voluntary disapproval of the No. 2288, Department of Health #10-155: Recreational Swimming Establishment Lifeguard Requirements. I think that some type of flexibility needs to be incorporated in the regulation. I am of the mindset that a regulation cannot always be a one-size-fits-all standard. I implore upon the commission to re-evaluate the regulation so that reasonable options can be implemented.

In closing I would like this correspondence to be added to the record. Also for your information, I along with my constituents from Palmerton plan to attend the IRRC meeting scheduled for Thursday, November 18, 2004. If the commission will permit, I would like to offer brief remarks in public session.

Thank you for your time.

Sincerely,



KEITH R. McCALL
State Representative
122nd Legislative District

KRMc:kcm
enclosures

cc: Senator James Rhoades
Senator Charlie Dent
Larry Arner