



# Senate Environmental Resources and Energy Committee

Senator Mary Jo White  
Chairman

Patrick Henderson, Executive Director

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April 11, 2005

The Honorable Kathleen A. McGinty, Chairperson  
Environmental Quality Board  
15<sup>th</sup> Floor Rachel Carson Building  
P.O. Box 8477  
Harrisburg, PA 17105-8477

**Re: Proposed Regulation # 7-392  
Environmental Laboratory Accreditation**

2005 APR 11 PM 5:38  
INDEPENDENT REGULATORY REVIEW COMMISSION  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Dear Chairperson McGinty:

We are writing on behalf of the Senate Environmental Resources & Energy Committee to express our concerns regarding several aspects of the above referenced proposed regulation.

As you know, the Independent Regulatory Review Commission (IRRC) issued its comments on proposed regulation # 7-392 on March 24, 2005. We share many of the concerns raised by IRRC, and urge the Department of Environmental Protection (DEP) to carefully review these recommendations and objections.

Two primary concerns raised by IRRC and several regulated entities revolve around whether fees should be established based on the volume of work performed by a laboratory, as well as the appropriateness of including a mechanism to periodically raise fees based on the Consumer Price Index (CPI). We agree with commentators who have requested that DEP consider a fee structure which does not place smaller laboratories at a competitive disadvantage.

We also support the Department's statement last July, reinforcing the Administration's priority that programs are based on fees that recover their administrative costs. It is appropriate to adjust fees from time to time. However, in our view linking fee increases to the CPI – rather than actual program costs – is not appropriate. The regulatory review process affords both policymakers and the regulated community the opportunity to review and comment upon fee adjustments. We strongly recommend that DEP remove the CPI mechanism, and caution against its inclusion in future proposed rulemakings.

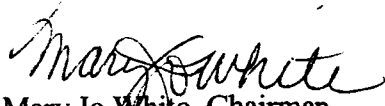
While our concerns here primarily reference the fee structure, we are aware and supportive of comments received by the Department urging careful consideration of small or in-

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house laboratories, alternate accreditation programs other than NELAP (if available) and other recommendations.

Thank you for your consideration of the Committee's comments, and your efforts to craft an environmental laboratory accreditation program that ensures both accountability and the quality of data collected in compliance with state and federal requirements.

Sincerely,



Mary Jo White, Chairman  
Senate Environmental Resources  
& Energy Committee



Raphael J. Musto, Democratic Chairman  
Senate Environmental Resources  
& Energy Committee

cc: IRRC