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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

March 4, 2009

Honorable Mary Jo White, Chairman  
Senate Environmental Resources and Energy Committee  
169 Main Capitol  
Harrisburg, PA 17120

Re: Regulation #7-430 (IRRC #2741)  
Environmental Quality Board  
Marcellus Shale Well Permit Fees

Dear Senator White:

We have recently received your letter dated March 3, 2009, expressing your concerns with this regulation. The decision to use the final-omitted rulemaking process has historically been the purview of the Office of Attorney General. Additionally, Section 204 of the Commonwealth Documents Law provides for three categories under which an agency can use the final-omitted process:

1. The regulation relates to (a) military affairs; (b) agency organization, management or personnel; (c) agency procedure or practice; (d) Commonwealth property, loans, grants, benefits or contracts; (e) the interpretation of a self-executing statute or administrative regulation;
2. All persons subject to the regulation are named or given personal notice. (Examples include those regulations setting fees for licensing examinations where the licensure applicants are individually notified of the amount of the fee.)
3. The agency finds that notice is impracticable, unnecessary, or contrary to the public interest. (Often seen in this category are regulations which will have a significant and immediate fiscal impact, respond to emergencies, or rescind existing regulations for which an enabling statute has been repealed or amended.)

However, the Commission will review and consider all of the issues that you have raised in your comments. Additionally, your letter will be included in the Commission's public record file.

Sincerely,

Kim Kaufman  
Executive Director