

3227

DARYL METCALFE, MEMBER
HOUSE OF REPRESENTATIVES
ROOM 144 MAIN CAPITOL
PO BOX 202012
HARRISBURG, PENNSYLVANIA, 17120-2012
PHONE: (717) 783-1707
FAX: (717) 787-4771

Website: RepMetcalf.com



House of Representatives
Commonwealth of Pennsylvania
Harrisburg

CRANBERRY TOWNSHIP MUNICIPAL CENTER
2525 ROCHESTER ROAD, SUITE 201
CRANBERRY TOWNSHIP, PA 16066
PHONE: (724) 772-3110
FAX: (724) 772-2922

ENVIRONMENTAL RESOURCES AND
ENERGY COMMITTEE
CHAIRMAN

May 14, 2019

Independent Regulatory Review Commission
333 Market St
Harrisburg, PA 17101



Dear Commissioners:

As members of the House Environmental Resources and Energy Committee, we write to you to express our disapproval of proposed Environmental Quality Board (EQB) Regulation 7-533.

The Committee voted today, May 14, in favor of sending you this letter on behalf of our constituents, their businesses, and the municipalities which will be negatively impacted if the NPDES and WQM fee increases proceed as proposed. As the standing House Committee with legislative oversight over the Department of Environmental Protection (DEP), it is our role to ensure that regulations proposed by DEP through the EQB are reasonable and consistent with the language and intent of the Acts on which they are based. This regulation fits neither criteria.

First, the Clean Streams Law, Act 394 of 1937, authorizes DEP "to charge and collect from persons and municipalities in accordance with its rules and regulations reasonable filing fees for applications filed and for permits issued." DEP is explicit about its intent to collect approximately eight million additional dollars annually from these fee increases to support its Clean Water Program. A clear reading of the language of the statute indicates that DEP should be collecting reasonable filing fees specifically for applications filed and permits issued. Thus, these fees should be correlated to the cost of processing the specific permits for which the fees are collected, not generally funding DEP's Clean Water Program. Funding for the rest of the Clean Water Program should and has come out of DEP's General Fund appropriation, and not out of fees levied on businesses and municipalities throughout the Commonwealth. It was not the intention of the General Assembly to fund DEP's Clean Water Program through application fees authorized by the Clean Streams Law.

Another important consideration regarding statutory authorization of these increases is the word reasonable. Though what is reasonable is certainly subjective, it is clear from the extreme percentage of the proposed increases that this regulation moves beyond reasonable by any definition. DEP is proposing exponential increases from existing fees, with the highest increase proposed being a 2,900 percent increase, an increase in the new WQM permit fee for major industrial waste treatment plants from \$500 to \$15,000.

As it is IRRC's role to analyze the economic and fiscal impacts of a regulation, the proposal will have an impact on every business and municipality which must pay these fees and make business decisions

within the Commonwealth. Additionally, these regulations will have an effect on Pennsylvania's taxpayers and consumers as these fees will likely be passed down through the economic chain.


Instead of fulfilling government's role of supporting local Pennsylvanian businesses and communities, this regulation would hurt many of those who can least afford it. Though the regulation would apply universally, smaller businesses and municipalities with limited resources would be disproportionately impacted by these excessive increases should the proposed regulation take effect. We note, for example, that you have already received comments from many farm owners, particularly from those with small, family-owned farms, who will be severely impacted by the increase in CAFO fees.

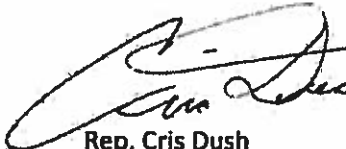
Finally, and perhaps the least palatable portion of this proposed regulation, is the proposal to adjust fees every two years based on changes to the U.S. Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation. Allowing fee increases to occur based on an index without going through the regulatory process circumvents the intent of the General Assembly to require that fee increases be set by regulation. This will also prevent the important step required by the Regulatory Review Act of public participation in the process by allowing future increases to happen out of the public's view, thus denying Pennsylvanians who will be impacted the ability to comment.

This proposed regulation is unacceptable, and if implemented would have a severe financial impact on the residents, businesses, and municipalities within our districts. We therefore ask IRRRC to disapprove this regulation in its proposed form since the provisions of the regulation run contrary to the language and intent of the Act on which they are based and are patently unreasonable. We urge the EQB and DEP to withdraw this proposed regulation. We, the undersigned members of the House Environmental Resources and Energy Committee, write this letter to draw your attention to our concerns with this proposed regulation and respectfully ask for your consideration.

Sincerely,


Daryl D. Metcalfe, Chairman
Environmental Resources & Energy Committee


Rep. Martin Causer
67th Legislative District


Rep. Cris Dush
66th Legislative District


Rep. Jonathan Fritz
111th Legislative District


Rep. R. Lee James
64th Legislative District


Rep. Ryan Mackenzie
134th Legislative District

Independent Regulatory Review Commission

May 14, 2019

Page 3 of 3




Rep. Carl Walker Metzgar
69th Legislative District

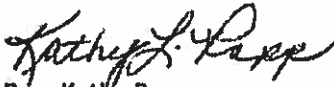
Rep. Tim O'Neal
48th Legislative District



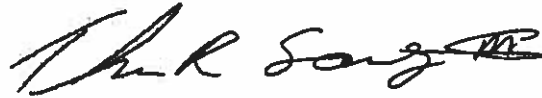
Rep. Jason Ortity
46th Legislative District



Rep. Jeff Pyle
60th Legislative District



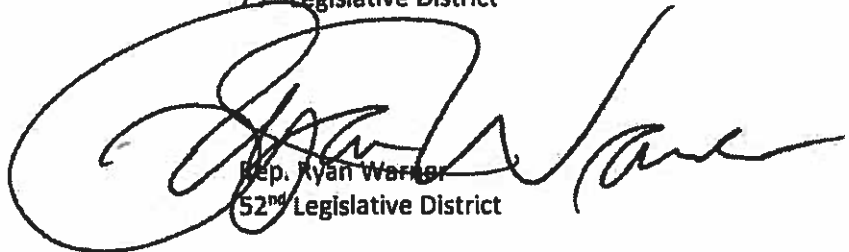
Rep. Kathy Rapp
65th Legislative District



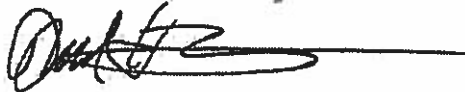
Rep. Thomas Sankey
73rd Legislative District



Rep. Paul Schemel
90th Legislative District



Rep. Ryan Warner
52nd Legislative District



Rep. Dave Zimmerman
99th Legislative District



Rep. Pam Snyder
50th Legislative District

DDM:pn

Cc: Environmental Quality Board
Department of Environmental Protection