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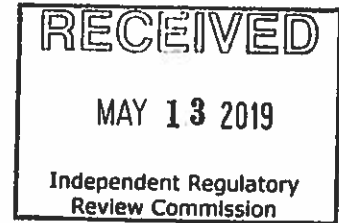
Northwood Office Center
2215 Forest Hills Drive, Suite 39
Harrisburg, PA 17112-1099



Ph: 717.651.5920
Fx: 717.651.5926
pennag@pennag.com
www.pennag.com

May 13, 2019

By E-mail (RegComments@pa.gov) and via eComment
Environmental Quality Board
Box 8477
Harrisburg PA 17105-8477



Re: Proposed Rulemaking by DEP
Comments to DEP's Proposed Change to NPDES/ WQM Permit Fees

Dear Members of the Environmental Quality Board:

On behalf of the more than 600 business members affiliated with PennAg, an agriculture trade association in existence since 1878 whose mission focuses on working to create and maintain an effective, viable and competitive environment for Pennsylvania agribusiness to grow and prosper, we respectfully oppose the proposal as well as raise the following issues regarding proposed fee increases associated with NPDES WQM Permit Fees.

The proposed fee increases for NPDES CAAP and CAFO's increasing to \$3,000 for a new permit; \$ 750 for a permit renewal; \$200 for amendments and \$1,500 as an annual fee for the purpose of funding additional inspectors is a tremendous taxation on the food supply system. While we recognize the situation DEP has been placed in due to decreased funding in the General Budget, it is unfair to expect the private sector to carry the burden of providing all the funding. It is not a function of private industry to fund government entities.

As it currently stands, if we assume there are 430+/- NPDES CAFO's and CAAP's in Pennsylvania, of which 98+/- are NPDES Individual CAFO's and CAAP's who will be held to this new permit fee structure once the regulation package is complete and the remaining 332+/- are General NPDES CAFO's who will experience a similar fee hike in the near future – what is the true intention of the Department? To put additional financial hardship on the most regulated; best operated farms or put agriculture out of business?

What justification/protocol did DEP follow to determine the appropriate funding level needed? Did DEP investigate what adjoining States charge for NPDES Permits? Our research indicates the following:

- New York, the annual fee for CAFO is only \$50 per year.
- Maryland, the permit fee for CAFOs is waived.
- Ohio the application fee for a new CAFO is \$200 and there is no annual fee.

In these States, there is no WQM (Water Quality Management) permit for new storage structures. Permit fees such as those being proposed is yet one more example of the Commonwealth not striving to promote its core business: Agriculture. Actions such as those being proposed hinder the growth of agriculture which in turn impacts the cost of food.

What is the Department's plan for the use of these funds? What assurances and improved service will the agriculture sector see from this new windfall of money to allow DEP to hire more employees? Will permits be issued in a timelier manner? Will DEP reinstate the Permit Decision Guarantee/Permit Time Clock – in that DEP would refund money to the applicant when DEP is unable to fulfill the expectation of a timely review of a permit action? What is DEP willing to offer to the agriculture sector to show good faith that these funds will help agriculture grow and prosper in the Commonwealth? Would the Department accept a change in the process – in that a permit fee is paid in full when the permit review is complete? This would put the responsibility on DEP to become more efficient in their review process

because the only way money is coming into the Department is for work accomplished. This is much like the processes of normal business – one pays for services rendered upon the successful and acceptable completion of said services.

Making some general assumptions, 98+/- Individual NPDES CAFO and CAAP Permits x \$750 (permit renewal fee) x 4 years of Annual Renewal fees at \$1,500 will on average cost a single NPDES CAFO Permit holders \$7,500 in fees over a 5 year period of time. Not to mention if an amendment is needed at an additional cost of \$200. Thus, netting DEP approximately \$735,000 (\$7,500 x 98). What stipulations will be in place to ensure there is not another fee increase next year? How will future fee increases be determined and what input will the public sector have in this process?

If the intention of the Department is to collect funds to cover the cost of field work and inspections then perhaps the Department should have been more judicious with the funds they have received from EPA in the past. Funds from EPA which were earmarked for inspections on all farms in the Commonwealth to ensure compliance with state and federal programs. Instead, the Department is focusing taxation on the small number of NPDES Farms expecting those heavily regulated farms to bear the burden of generating funds for the Department. Perhaps the Department should reevaluate the manner in which inspections are conducted and stop the duplication of work between DEP and County Conservation Districts. This alone would net both DEP and Conservation District staff extra time as well as financial savings.

Too often, we have heard from our members about DEP and Conservation District inspectors driving past violations just to do an inspection of a NPDES CAFO Farm – Why you ask? Because it was easier to inspect the CAFO farm rather than having an uncomfortable perhaps difficult conversation with a farmer who may need compliance assistance or guidance. What perimeters will the Department follow to ensure that ALL farms are treated equally and that ALL farms are inspected to ensure compliance with the rules and regulations which have been in place since the early 1970's?

It is time for the Department to respect the role of Pennsylvania Agriculture and the benefits it provides to the Commonwealth and to stop looking at Agriculture as the root of all evils associated with the Chesapeake Bay and most importantly to stop assessing fees on animal agriculture to resolve management problems within the Department.

We do thank the Environmental Quality Board for soliciting public input and allowing for those impacted by this action to provide you with consultation and thoughts as you move forward with the decision making process.

We would welcome the opportunity to engage in constructive and meaningful dialogue on this issue and will make our schedule amenable to your availability.

Sincerely,



Christian R. Herr
Executive Vice President
PennAg Industries Association

xc: Secretary Redding, PA Department of Agriculture
Senator Vogel, Chairman, Senate Agriculture Committee
Senator Schwank, Minority Chair, Senate Agriculture Committee
Representative Causer, Chairman, House Agriculture Committee
Representative Pashinski Minority Chair, House Agriculture Committee