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Pennsylvania Manufacturers' Association

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March 13, 2019

RE: Regulation #7-533: Water Quality Management and National Pollution Discharge Elimination System Permit Application and Annual Fees

The Pennsylvania Manufacturers' Association adamantly opposes the proposed "Water Quality Management (WQM) and National Pollution Discharge Elimination System (NPDES) Permit Application and Annual Fees" increases before the Pennsylvania Independent Regulatory Review Commission.

On March 12, 2019, the Pennsylvania Department of Environmental Protection (DEP) sent the proposed regulation to the Independent Regulatory Review Commission (IRRC), and then published the changes in the PA Bulletin on March 30, 2019. The Clean Streams Law authorizes the Department to formulate and adopt regulations, including fees, which are found in Chapters 91 and 92a of Title 25 of the Pa. Code. In addition to increasing the existing fees, the department is also proposing the removal of an existing cap on general NPDES permit Notice of Intent (NOI) fees and replacing it with a requirement that NOI fees may not exceed the equivalent in individual permit fees. As a result of these changes, the Department expects to collect an additional \$8 million per year. This is just one application and annual fee increase as there are others proposed by DEP on the IRRC docket for approval, totaling \$23 million per year.

Additionally, under the current system, the Department can only change the fees by regulation. In this proposal, they would adjust WQM and NPDES fees according to an Employment Cost Index every 2 years, limited only by the Department's cost to administer the Clean Water Program.

While the Clean Streams Law authorizes the Department to formulate regulations, including fees, the unprecedented increases in the proposal before IRRC seem far outside the intent of the General Assembly. The cost of this \$8 million per year increase will be paid on the shoulders of our commonwealth's taxpayers and businesses, hampering growth, and ultimately threatening the effectiveness of the programs. Not only will this increase the cost of doing business in Pennsylvania for our members through the direct payment of

increased fees, but it will also cost our members in additional taxation for the municipalities in which they operate to comply with the new application and annual fee rate increases. Economic impact is a factor of consideration that IRRC must examine when reviewing regulation application and annual fee increases.

Most disconcerting, it is our understanding that the Department of Environmental Protection has initiated fee increases such as this one in order to stabilize the funding for overall departmental operations because of volatile funding by the General Assembly. Fees for programs should be commensurate with the deployment of said program and not used to sustain or increase overall departmental funding. The overall funding of any state department of agency is a matter of the General Assembly and the Governor as the fiscal year budget is negotiated.

The public good that comes from regulations is compliance. The Department of Environmental Protection ought to act as a partner in achieving compliance rather than pricing businesses and municipalities out of progress, improvement, and innovation.

It is for these reasons that the Pennsylvania Manufacturers' Association opposes Regulation #7-533: Water Quality Management and National Pollution Discharge Elimination System Permit Application and Annual Fees.

Respectfully submitted,



David N. Taylor
President & CEO



Carl A. Marrara
Vice President of Government Affairs