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CHESAPEAKE BAY FOUNDATION
Saving a National Treasure



May 14, 2019

Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Via eComment and e-mail: <http://www.ahs.dep.pa.gov/eComment> and RegsComments@pa.gov

**RE: Proposed Rulemaking: Water Quality Management and National Pollution
Discharge Elimination System Permit Application and Annual Fees**

Dear Environmental Quality Board,

On behalf of the Chesapeake Bay Foundation (CBF) and its more than 275,000 members and e-subscribers, I am respectfully writing to comment on the Proposed Rulemaking: Water Quality Management (WQM) and National Pollution Discharge Elimination System (NPDES) Permit Application and Annual Fees under 25 Pa. Codes Chapters 91 and 92a.

CBF is a 501(c)(3) non-profit organization, founded in 1967. The organization's mission -- carried out from offices in Maryland, Virginia, Pennsylvania (PA) and the District of Columbia -- is to restore and protect the ecological health of the Chesapeake Bay, the nation's largest and one of its most vital estuaries. As such, and on behalf of our members, we are very interested in matters that will impact the health of the Chesapeake Bay, the waters that feed into it, and the health of those who live and work within the Bay watershed. This proposed rulemaking could impact the health of local waters and ultimately to the Chesapeake Bay.

For more than a decade the Department of Environmental Protection (DEP)'s staff and resources have been significantly cut due to budget constraints despite changes in both industry and the environment. Importantly, in recent years the U.S. Environmental Protection Agency (EPA) has cited that several delegated programs, such as the federal Safe Drinking Water Act and stormwater management programs, administered by DEP, are so underfunded and understaffed that they are failing to meet standards. DEP has applied triage over the years while trying to still meet its mission by modernizing its permitting, inspection and compliance processes. Without support from the General Fund, increasing the fees of WQM permit applications, NPDES permit applications and NPDES annual fees is fiscally responsible, competitive with neighboring states and appropriate to allow DEP to meet its legal mandates.

These fee increases provide a new revenue source separate from the General Fund which may allow DEP to properly administer these programs, expedite permit review times, conduct adequate and thorough inspections during vital stages of construction and post-construction,

respond expeditiously to complaints or problems and enhance compliance. However, these benefits in a properly and efficiently implemented program can only occur if the funds increase from the fees are utilized to enhance and grow the program in proportion to the needs as opposed to simply filling a budget gap within DEP's operation. Therefore, we recommend that these funds be used accordingly and/or adjusted to allow the program to operate at full capacity.

Robust implementation of the NPDES and WQM programs in DEP is important to human health and safety but also for clean water, especially within the Chesapeake Bay watershed. As a requirement by the EPA, PA and other Chesapeake Bay watershed states were assigned pollution reduction goals which must be met by 2025. On April 12, 2019, DEP published its draft Phase 3 Watershed Implementation Plan (Phase 3 WIP). The Phase 3 WIP sets out practices and controls to provide reasonable assurances that PA will meet its commitments. Although overall PA is behind in meeting its goals, the wastewater sector has greatly reduced its pollutants which are integral in improving the health of the Chesapeake Bay.

To ensure that this effort of pollutant reduction continues to meet the Chesapeake Bay goals it is just as important now that DEP have all its resources to oversee these programs. As population and needs grow, so will the wastewater sector; accordingly, it is critical to have the NPDES and WQM programs develop with this trend to maintain the successes regarding pollutant reductions. Consistent oversight of current, new or expanding facilities through the NPDES and/or WQM programs not only helps DEP meet its mission, but also ensures that this Commonwealth is dedicated to its commitment to the health of its local waters as well as the overall restoration of the Chesapeake Bay.

In conclusion, we commend this proposed rulemaking package which will allow for appropriate and implementable NPDES and WQM programs without the use of additional taxpayer monies. As previously mentioned we recommend that these funds be used solely for the programs to operate at full capacity or otherwise be adjusted to do so. Finally, we recommend that the three-year fee adequacy review and written report to the Environmental Quality Board (as indicated in the regulations) include a careful analysis to understand if the fees are detrimentally impacting smaller facilities or owners of concentrated animal feeding operations (CAFO).

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'H.L. Campbell', with a stylized flourish at the end.

H.L. Campbell
Executive Director, Pennsylvania Office