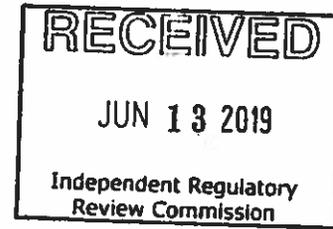


June 13, 2019

Scott Schalles
Pennsylvania Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101



Dear Mr. Schalles:

Pennsylvania Farm Bureau wishes to offer its comments to the Independent Regulatory Review Commission (IRRC) on the Environmental Quality Board's (EQB) proposal to increase fees for Water Quality Management (WQM) permit applications and National Pollutant Discharge Elimination System (NPDES) permit applications. Farm Bureau is a general farm organization, made up of more than 62,000 members. Since 1950, Farm Bureau has provided support, advocacy and informational and professional services for Pennsylvania agriculture and farm families, including numerous operators who would be negatively affected by the EQB's proposal.

While we are aware of the EQB's position relative to the challenges that the Department of Environmental Protection (DEP) faces in administering its programs, as well as DEP's estimates of the cost of the staff time previously devoted to administering the NPDES CAFO (Concentrated Animal Feeding Operation) and other water quality management programs, the fee proposal in this package is excessive and burdensome to permittees. Specifically, we offer the following comments on the proposal:

1. Livestock producers are unable to recover the lost revenues to pay the increased fees for NPDES permits. The affected producers are price takers, and as such have next to no control over what they can charge for what they produce, meaning that they cannot simply pass the increased permit costs onto their customers.
2. The proposed section Section 91.22, containing the proposed changes to 25 PA Code section 91.22(c), allows fee increases every two years based on the U.S. Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation. This is unacceptable to agricultural producers.
3. Livestock producers realize that the DEP fee increases that are proposed for the individual NPDES permit will most likely apply to the general permit fee structure at the next review. (See item #8)
4. The proposed section titled "Compliance Costs" brings opposition from livestock producers, who oppose being forced to financially support the legal obligations, permitting activities and additional positions for DEP as it increases its revenues via an additional \$6 million extracted from NPDES and WQM permittees from industry and agriculture.
5. A greater number of livestock producers are likely to be classified as CAFO operations due to the increase in animal weights recently adopted by the State Conservation Commission and be subject to pay substantial permit fees.

Pennsylvania Farm Bureau

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6. Livestock producers that are classified as CAFOs are concerned about the adverse business climate created by the DEP permit fee increases, the level of which may reach the threshold of closing livestock operations in the state or discouraging new operations.
7. In the proposal section titled "D. Background and Purpose," DEP mentions that an inspection program with the new fees (implied) could be expanded to all farms (this was previously suggested by a member of the Agricultural Advisory Board).
8. The proposed Section 91.22 mentions that persons seeking a general permit need to submit a Notice of Intent (NOI). DEP proposes to remove the current ceiling for a general permit of \$500.00 with new language that states NOI fees for a general permit may not exceed the amount established for the individual WQM permit application fees for equivalent projects. This suggests a substantial increase in fees over the current ceiling of \$500.00 for the general WQM permit.
9. The proposal section titled "Benefits, Costs and Compliance" states that the DEP will not be able to properly administer the Clean Water Program without increases in the appropriation of general tax revenue. If that is indeed the case, perhaps DEP should strongly advocate that the Clean Water Program take priority over other state funded programs and shift funds from those sources to fund NPDES and WQM permits.
10. In the proposal section titled "H. Sunset Review," there is no sunset review date, which means the permit fee increases along with successive increases every two years are permanent.
11. The proposed section titled "Applications and Permits", Section 91.22 (Fees), shows a substantial proposed fee increase for new manure storage facilities—from \$500.00 to \$2,500.00 under the new rulemaking (or 400 percent).
12. The process and information required to get a general permit is not significantly different than that required to get an individual permit, but there is more paperwork associated with the individual permit.
13. This type of proposal undermines DEP's claim to seek a good-faith partnership in areas like the Chesapeake Bay cleanup. As producers have done what is asked of them to install BMPs and improve water quality, DEP demands still more in the form of the proposed fee increases.

Instead of seeking to impose new and/or increased fees on the regulated community, we urge the rejection of this proposal and support exploring the development of other funding and resource allocation alternatives that allow DEP to adequately fulfill its core objectives. We appreciate the opportunity to provide comments on this important proposal.

Sincerely,



Grant R. Gulibon
Director, Regulatory Affairs