

3256.

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: RepMetcalfe.com



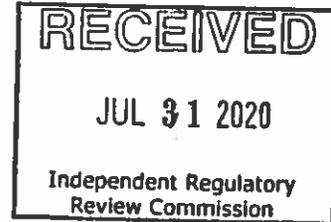
House of Representatives
Commonwealth of Pennsylvania
Harrisburg

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

July 27, 2020

Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 1710



Dear Commissioners:

As the majority Chairman of the House Environmental Resources and Energy Committee, I write to you to express my disapproval of proposed Environmental Quality Board (EQB) Regulation 7-544.

I am sending you this letter on behalf of citizens and businesses throughout the Commonwealth that will be negatively impacted if this regulation goes into effect as written. 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 intent of the Acts on which they are based. This regulation fits neither criteria.

There are two main areas of concern with regards to the regulation. First, as written, it is unclear to what extent the regulation applies to the conventional oil and gas industry. Act 52 of 2016 requires that the EQB regulate the conventional industry separately and independently from the unconventional industry. DEP informed the Pennsylvania Grade Crude Oil Development Advisory Council (CDAC) that the rule would not impact conventional operations, yet the manner in which numerous provisions and definitions of the regulation are drafted could be read to apply to the conventional industry.

As this is both contrary to law, and rather disingenuous, the regulation must be withdrawn and all portions which may apply in any way to the conventional industry must be removed before the regulation can proceed. If DEP wishes to have portions of this regulation apply to the conventional industry, it must by law do so under a separate rulemaking package and more completely address the potentially serious impacts of the regulation in a separate regulatory analysis form.

Second, though the regulation is based on Control Technique Guidelines (CTGs) released by the U.S. EPA, DEP has gone well past what was required by the EPA in the regulation. Specifically, the regulation adopts many requirements which are more in line with Best Available Technology (BAT) rather than the Reasonably Available Control Technology (RACT) which the federal guidelines require. This would compel an already struggling industry to make cost-prohibitive modifications to existing technology.

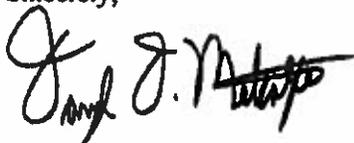
The Department also does not provide an adequate economic analysis as to why it has chosen to exceed the requirements from the EPA as part of the regulation. Furthermore, the existing economic analysis is clearly inaccurate. DEP has chosen to use the price of natural gas from 2012 to declare that the industry will see \$9.9 million in benefits from gas saved throughout the process. The 2012 price of natural gas is significantly higher than the current value of natural gas, meaning that this number of benefits is vastly overstated.

DEP has not released technical support documents for the regulation to demonstrate how the compliance requirements the regulation calls for will result in VOC emission reductions at greater rates than what the EPA requires. Reductions will vary in different parts of the state, and in many cases, DEP will require operators to expend significant resources implementing new technology which will result in little to no environmental benefit. Additionally, DEP is requiring a frequency of inspections in the regulation which will provide no significant emission reductions, but will be extremely burdensome on operators. Again, this requirement, along with many in the regulation, goes well beyond what the EPA required without any demonstration of additional environmental benefits.

Not for the first time, DEP is proposing a regulation that will greatly harm the business community and investment in the Commonwealth without appropriately considering the economic impact of its actions. It is a part of IRRC's role to analyze the economic and fiscal impacts of a regulation and I respectfully request that you do so as this regulation moves through the process.

This proposed regulation is unacceptable, and if implemented would have a serious economic impact on the Commonwealth without addressing why parts of the regulation are necessary to achieve specific environmental benefits. I therefore ask IRRC to disapprove this regulation in its proposed form and urge the EQB and DEP to withdraw this proposed regulation in its current form. I write this letter to draw your attention to our concerns with this proposed regulation and respectfully ask for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Daryl D. Metcalfe". The signature is stylized and somewhat cursive.

Daryl D. Metcalfe, Chairman
Environmental Resources & Energy Committee

DDM:jld