

## Comments of the Independent Regulatory Review Commission



### Environmental Quality Board Regulation #7-574 (IRRC #3352)

#### Radiological Health Fees

October 26, 2022

We submit for your consideration the following comments on the proposed rulemaking published in the August 27, 2022 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Environmental Quality Board (Board) to respond to all comments received from us or any other source.

#### **1. Chapter 218, Appendix A. Fees for Radioactive Material Licenses. – Statutory authority; Reasonableness; Need.**

##### *Fee Categories 4A, 5B and 14*

The full cost recovery fee for licenses in categories 4A, 5B and 14 is currently \$225 per hour and is proposed to be increased by 22 percent to \$275 per hour. This fee is assessed for decontamination and decommissioning activities performed by the Department of Environmental Protection (Department) and covers personnel and incidental charges. We have two issues. First, the Preamble and Regulatory Analysis Form (RAF) submitted with this proposed regulation state the fees in Chapter 218, Appendix A are increased by ten percent. Second, the Board does not explain the need to raise this fee. We ask the Board to revise the Preamble and RAF submitted with the final-form regulation to reflect the percentage increase of the full cost recovery fee. Further, we ask the Board to explain why this increase is needed and reasonable.

##### *Fee Category 6A*

The annual fee for a nuclear laundry license is currently \$43,200 and is proposed to be increased by ten percent to \$47,520. A commentator who holds this license believes the fee was initially based on information received from the United States Nuclear Regulatory Commission, which “was likely skewed by excessive hours devoted . . . to oversight related to a condition that no longer exists.” The commentator is also licensed in seven other states, where fees range from \$4,000 to \$18,284. The commentator goes on to request a reduction in this fee to a reasonable standard in consideration of actual costs incurred by the Department. Section 401 of the Radiation Protection Act (Act), the statutory authority for this proposed regulation, requires the Board to “set reasonable annual fees” to provide the Department with sufficient funds to administer the Radiation Protection Program. 35 P.S. § 7110.401. In addition to addressing the

commentator's concerns, we ask the Board to explain why this fee, and the proposed increase, is reasonable and how it complies with the requirement in the Act.

**2. RAF – Clarity; Economic or fiscal impact.**

The estimates of costs to local governments in RAF Question #20 and state government in RAF #21 to comply with this proposed regulation conflict with the estimates for these regulated communities in RAF Question #23. We ask the Board to update the RAF submitted with the final-form regulation to provide consistent cost estimates.