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ENVIRONMENTAL RESOURCES AND
ENERGY COMMITTEE
CHAIRMAN

July 11, 2022

Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17101

Dear Commissioners:

As members of the House Environmental Resources and Energy Committee, we write to you to express our intent to review final-form Environmental Quality Board (EQB) Regulation 7-544 under Section 5.1 (j.2) of the Regulatory Review Act.

The Committee voted today, July 11th, in favor of sending you this letter to extend our review period and we request that you please allow this letter to serve as the committee's official comments on the current version of the final regulation, in place of our previous letter sent to you on April 26th on the previous final version of the regulation. 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 our statutes. We intend to review this regulation because we have a number of concerns, both procedural and substantive.

First, the procedure that this regulation has undergone at the final stage is extremely unusual and potentially may be in violation of the law. Our previous letter focused on DEP's failure to separate the aspects of the rulemaking dealing with conventional oil and gas wells into a separate package, as clearly required by Act 52 of 2016. We are pleased to see that DEP has acknowledged this issue and removed the portions of the regulation relating to the conventional industry, but we have concerns with DEP's action to unilaterally withdraw a regulation from IRRC's agenda that the EQB previously voted to approve to make serious substantive changes to the regulation.

Additionally, DEP's statement at the EQB meeting as to what the Department intended to do with the now potentially separate regulation dealing with the conventional industry was alarming, as the Department is considering starting what would be a new regulation at the final stage. We believe this would violate both Act 52 and the text and intent of the Regulatory Review Act by starting a new regulation at the final stage. The most prudent course of action seems to be submitting both this version of the regulation and DEP's intended second regulation related to the conventional industry as proposed regulations, as the two regulations separately are very different than the one combined regulation, and the public deserves the opportunity to weigh in on the regulations during a public comment period at the proposed stage.

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As to our substantive concerns with the regulation, there are a number of different areas where the regulation goes beyond the standards the federal government has required and what other oil and gas producing states have and are adopting. Just to name a few examples, the emissions threshold in the regulation for tanks that must install controls capturing 95% of emissions is less than half of what the federal government requires. The final regulation requires quarterly LDAR inspections instead of the twice a year required by the federal government. There are a number of testing intervals, recordkeeping, and reporting items that are considerably more stringent than what the federal government requires, which add unnecessary costs to operators with no benefit. Finally, we would again note that the DEP's lack of regard throughout the regulation and regulatory process for our small businesses is unfortunate and unjustified, as they have not shown any willingness to consider less burdensome alternatives for the community.

We respectfully request that IRRRC examine the procedural issues we have raised, particularly the possibility that DEP may be attempting to start another regulation out of this initial rulemaking at the final stage. We, the undersigned members of the House Environmental Resources and Energy Committee, write this letter to draw your attention to our concerns and intent to review this final form regulation and respectfully ask for your consideration.

Sincerely,

Daryl D. Metcalfe, Chairman
Environmental Resources & Energy Committee

CC: Environmental Quality Board
Department of Environmental Protection