



Senate Environmental Resources and Energy Committee

Senator Mary Jo White
Chairman

Patrick Henderson, Executive Director

Room 168 • State Capitol Building
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April 8, 2003

Honorable Kathleen A. McGinty
Acting Chairperson
Environmental Quality Board
16th Floor Rachel Carson State Office Building
Harrisburg, PA 17101

Re: Proposed Regulation # 7-378
*Small Sources of NOx, Cement Kilns
& Large Internal Combustion Engines*

Dear Acting Chairperson McGinty:

We are writing on behalf of the Senate Environmental Resources & Energy Committee to express our concerns regarding several aspects of the above referenced proposed regulation.

It is our understanding that the Independent Regulatory Review Commission (IRRC) issued its comments on proposed regulation # 7-378 on March 20, 2003. We share many of the concerns raised by IRRC, and urge the Department of Environmental Protection (DEP) to carefully review these recommendations and objections.

We are also writing to share with you the committee's support for comments submitted by other affected entities. Specifically, we join in the concern over the impact this regulation will have on the Commonwealth's Waste-to-Energy (WTE) facilities. WTE facilities serve an important role in helping the Commonwealth meet its municipal waste management obligation. Furthermore, WTE facilities are highly regulated and constantly strive to meet all pertinent air quality standards. While we support DEP's efforts to reduce NOx emissions in the Commonwealth, there is great concern that the new regulatory requirements of this proposal will not only be cost prohibitive, but will have minimal impact in improving air quality.

The economic impact of the proposed regulations on communities served by WTE facilities is documented in several of the comments already received by the Environmental Quality Board (EQB). American Ref-Fuel Company, which operates a WTE facility under contract with the Delaware County Solid Waste Authority, estimates in its comments of December 18, 2002 that a retrofit required under this regulation could cost upward of \$30 million in one-time capital improvements, with annual operating expenses of \$1.5 million. Delaware

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INDEPENDENT REGULATORY REVIEW COMMISSION

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County ratepayers would be responsible for approximately 56% of these costs.

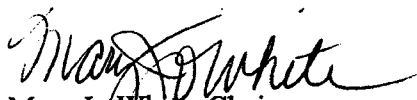
The Montgomery County Board of Commissioners have expressed similar concerns. Under this regulatory proposal, the Waste System Authority of Eastern Montgomery County would need to invest approximately \$6 million in new technology at the Montgomery County Resources Recovery Facility. These costs would be borne by the Authority's twenty-two member municipalities.

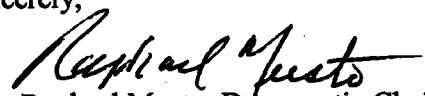
The testimony of these facilities is symptomatic of other WTE facilities in Pennsylvania. For these reasons, we urge the EQB and DEP to consider exempting WTE facilities from the proposed NOx reduction regulations.

Additionally, many commentators have expressed concern that the proposed NOx reductions are not only economically but perhaps also physically unfeasible. Most if not all large sources of NOx have undergone significant retrofitting as required by the 1990 amendments to the federal Clean Air Act. In some cases, there is little if any room for improved performance and reduced NOx emission. The testimony from natural gas representatives, received during the EQB's November 18, 2002 public hearing, illustrates this serious concern.

In summary, we ask the EQB and DEP to work with the regulated community to ensure that any final regulation is economically feasible for affected ratepayers and regulated entities, and offers a measurable means of reducing the Commonwealth's NOx emissions. Given the great interest and concern regarding the EQB's proposed regulation, the EQB may wish to consider issuing an Advanced Notice of Final Rulemaking (ANFR). An ANFR will afford the affected public an opportunity to review any substantial changes the EQB makes to this proposal.

Thank you very much for your careful consideration of the committee's comments.


Mary Jo White, Chairman
Senate Environmental Resources
& Energy Committee

Sincerely,

Raphael Musto, Democratic Chairman
Senate Environmental Resources
& Energy Committee

cc: Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
Honorable Art Hershey, Chairman
House Environmental Resources & Energy Committee