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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

June 11, 1999

Honorable James M. Seif, Chairman
Environmental Quality Board
Rachel Carson State Office Building
400 Market Street, 16th Floor
Harrisburg, PA 17105

Re: IRRC Regulation #7-343 (#2008)
Environmental Quality Board
Nitrogen Oxides Allowance

Dear Chairman Seif:

Enclosed are our Comments on your proposed regulation #7-343. They are also available on our website at <http://www.irrc.state.pa.us>.

The Comments list our objections and suggestions for your consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you want to meet with us to discuss these Comments, please contact James M. Smith at 783-5439.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce". The signature is written in a cursive style.

Robert E. Nyce
Executive Director

REN:kcg
Enclosure
cc: Sharon Freeman
Barbara Sexton
Office of General Counsel
Office of Attorney General
Pete Tartline

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION

ON

ENVIRONMENTAL QUALITY BOARD REGULATION NO. 7-343

NITROGEN OXIDES ALLOWANCE

JUNE 11, 1999

We have reviewed this proposed regulation from the Environmental Quality Board (EQB) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to need, reasonableness and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 123.115. Initial NO_x allowance NO_x allocations. - Need and Clarity

Subsection (b) would only apply to the Colver Power Project. Inter-Power/AhlCon Partners, L.P. commented that the Colver Power Project began operation on November 18, 1994. If the Colver Power Project is operating, why wasn't Subsection (b) deleted?

2. Appendix E. - Reasonableness and Clarity

NO_x affected sources

TOSCO commented that two boilers will no longer meet the definition of "NO_x affected source" because their maximum heat capacity is less than 250 MMBtu. TOSCO is in the process of modifying the permit to be consistent with the capacity of the boilers. The EQB should delete these sources if the boilers do not meet the definition of "NO_x affected source."

Allowance allocation

Zinc Corporation of America (ZCA) believes their original allocation of allowances was not accurate. ZCA believes they are being further penalized by this rulemaking because they are losing two more allowances as a result of the accounting error adjustment. We note that some source allocations were adjusted and some were not. The EQB should explain why the allocation of allowances to ZCA is reasonable and why ZCA's allocation of allowances is being adjusted while some other sources are not.

Source designations

PECO Energy and TOSCO commented on corrections to the "County," "Facility" and "Combustion Source Name" of several sources. The EQB should make these corrections in the final-form regulation.