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

November 2, 2000

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

Re: Regulation #7-358 (IRRC #2139)
Environmental Quality Board
Interim Enhanced Surface Water Treatment

Dear Chairman Seif:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for 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 would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director
cae

Enclosure

cc: Honorable Arthur D. Hershey, Majority Chairman, House Environmental Resources & Energy Committee
Honorable Camille George, Democratic Chairman, House Environmental Resources & Energy Committee
Honorable Mary Jo White, Chairman, Senate Environmental Resources and Energy Committee
Honorable Raphael J. Musto, Minority Chairman, Senate Environmental Resources and Energy Committee
Sharon Trostle, Regulatory Coordinator, Environmental Quality Board
Barbara Sexton, Director of Policy Office, Environmental Quality Board

Comments of the Independent Regulatory Review Commission

on

Environmental Quality Board Regulation No. 7-358

Interim Enhanced Surface Water Treatment

November 2, 2000

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The Environmental Quality Board must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by October 2, 2002, the regulation will be deemed withdrawn.

1. General. - Reasonableness.

The Environmental Protection Agency (EPA) commented that the provision at 40 CFR § 141.173(a)(3) is not included in this rulemaking. This federal provision states, "A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the state." Why was this option excluded in Pennsylvania's regulation?

2. Section 109.1. - Definitions. - Clarity.

CPE - Comprehensive Performance Evaluation

The provisions under Subsection (ii) are substantive. Definitions should not contain substantive provisions. These minimum components of the Comprehensive Performance Evaluation should be moved to Section 109.205.

Disinfection profile

This definition mentions "procedures and measurement methods established by the EPA. For clarity, a specific reference to the EPA procedures and measurement methods should be added.

3. Section 109.202. - State MCLs and treatment technique requirements. - Reasonableness; Clarity.

Subsection (c)(1)(iii)(C) uses the phrase "unless the Department specifies more stringent performance criteria." Under what circumstances would the Department require "other filtration technologies" to meet more stringent criteria than conventional filtration? What process will the Department use to impose more stringent performance criteria?

4. Section 109.204. - Disinfection profiling and benchmarking. - Nature of required reports; Reasonableness; Clarity.

This section requires data to be submitted “in a format acceptable to the Department.” What format does the Department intend to accept? How will the person filing the data be notified what format is acceptable to the Department?

5. Section 109.301. - General monitoring requirements. - Economic impact; Reasonableness.

Subsection (1)(iv) requires an operator to “conduct continuous monitoring of turbidity...and record turbidity levels every 15 minutes.” One commentator currently records turbidity continuously and can retrieve data as necessary from the continuous data. The commentator suggests an amendment to “record data at least every 15 minutes.” Is the requirement to “record turbidity levels every 15 minutes” intended to be a minimum requirement? If so, the regulation should be amended as suggested.

6. Section 109.701. - Reporting and recordkeeping. - Clarity.

In regard to Subsection (e), the EPA notes that “systems must maintain individual filter monitoring data for at least three years, and they must report that they have conducted individual filter monitoring within ten days after the end of each month that the system serves water to the public.” Existing subsection (d) specifies record maintenance requirements. Are the records required under Subsection (e) subject to Subsection (d) *Record maintenance*? Does this meet EPA requirements?

7. Section 109.714. - Filter profile, filter self-assessment and CPEs. - Reasonableness; Clarity.

EPA commented that under federal regulations, systems have 90 days to complete a Comprehensive Performance Evaluation. Subsection (3) states a CPE must be *conducted* within 30 days. There are two concerns. First, why is Pennsylvania using a 30-day requirement when the EPA uses a 90-day requirement? Second, the regulation should state when the CPE must be *completed*.