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

April 12, 2001

Honorable David E. Hess, Acting Chairman  
Environmental Quality Board  
Rachel Carson State Office Building  
400 Market Street, 16th Floor  
Harrisburg, PA 17105

Re: Regulation #7-361 (IRRC #2168)  
Environmental Quality Board  
Household Hazardous Waste

Dear Acting Chairman Hess:

Enclosed are our Comments. They will soon be available on our website at [www.irrc.state.pa.us](http://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

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Enclosure

cc: Honorable Arthur D. Hershey, Majority Chairman, House Environmental Resources and Energy Committee  
Honorable Camille George, Democratic Chairman, House Environmental Resources and 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, Department of Environmental Resources  
Barbara Sexton, Director, Policy Office, Department of Environmental Resources

# Comments of the Independent Regulatory Review Commission

on

## Environmental Quality Board Regulation No. 7-361

### Household Hazardous Waste

April 12, 2001

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 (EQB) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by March 12, 2003 the regulation will be deemed withdrawn.

#### 1. Status of regulation of household waste. - Clarity.

Section 261a.4, Section 271.1 and the Preamble describe a process to encourage certain household wastes to be disposed of as hazardous waste, rather than as municipal waste. However, as described below, these provisions are confusing. It is unclear when the status of the waste changes from being regulated as municipal waste to being regulated as hazardous waste.

##### *Section 261a.4. Exclusions.*

The intent of Paragraph (1) is unclear. It states, "the exclusion of 40 CFR 261.4(b)(1) (relating to exclusions) does not apply to household hazardous waste as defined in § 271.1...." The confusion is further compounded because the proposed definition of "household hazardous waste" in Section 271.1 references 40 CFR 261.4(b)(1). The person in possession of this waste needs to clearly know whether to comply with Article VII. *Hazardous Waste Management* or Article VIII. *Municipal Waste*.

##### *Section 271.1. Definitions.*

The definition of "household hazardous waste" raises two concerns. First, designating waste as "*household hazardous waste*" is no longer relevant once it has been collected. After collection, this waste is regulated as hazardous waste, regardless of whether it was produced by a household. Since Paragraph (i) describes hazardous waste, why is it needed in the definition of "household hazardous waste"?

Second, related to our first concern, the definition contains a mix of what is and what is not regulated as hazardous waste. The definition should only describe the term "household hazardous waste." The substantive provisions in Paragraphs (i) and (ii) should be moved to the body of the regulation.

##### *The Preamble*

The Preamble also is unclear. The Preamble description of amendments to Section 261a.4 states,

...the changes to the regulation will ensure that when household hazardous waste has been collected as part of a household hazardous waste collection program, *it will continue to be managed and transported as a hazardous waste* rather than as part of the municipal waste stream.” (Emphasis added.)

The phrase “continue to” implies the household waste was regulated as hazardous prior to collection. Is the household waste regulated as hazardous waste prior to collection?

**2. Section 271.1. Definitions.**

The terms “eligible entity,” “sponsor,” “collection contractor” and “collection event” are defined in the Small Business and Household Pollution Prevention Program Act and are used throughout this regulation. For increased clarity, these four terms should be referenced in the definitions section of this regulation.

**3. Section 272.314. Limits on Department’s authority to award grants. - Clarity.**

Under Subsection (b)(3) an applicant must demonstrate “to the Department’s satisfaction” that it has complied with the Small Business and Household Pollution Prevention Program Act. What is the applicant required to provide to satisfy the Department?

**4. Section 272.383. Grant application. - Clarity.**

*Subsection (a)*

This subsection requires an application to be accompanied by “appropriate supporting documentation.” How will an applicant know what supporting documentation is “appropriate”? The Department should describe the appropriate supporting documentation.

*Subsection (b)*

This subsection requires the grant applicant to “ascertain that a record of operations” has been sent to the Department. There are two questions. First, what purpose is served by the applicant “ascertaining” the Department is in possession of a record? Would this be included in the Department’s review of the application?

Second, why is this requirement separate from the information on the form required by Subsection (a)?

**5. Section 272.531. Basic operational requirements. - Clarity.**

There is a typographical error in Paragraph (a)(3). A closing parenthesis is missing.