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

April 11, 2002

Honorable David E. Hess, Chairman  
Environmental Quality Board  
Rachel Carson State Office Building  
400 Market Street, 16th Floor  
Harrisburg, PA 17101

Re: Regulation #7-374 (IRRC #2242)  
Environmental Quality Board  
Great Lakes Initiative

Dear 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,

A handwritten signature in black ink, appearing to read "Robert E. Nyce".

Robert E. Nyce  
Executive Director  
wbg  
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

# **Comments of the Independent Regulatory Review Commission**

**on**

## **Environmental Quality Board Regulation No. 7-374**

### **Great Lakes Initiative**

**April 11, 2002**

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 If the final-form regulation is not delivered by March 12, 2004, the regulation will be deemed withdrawn.

#### **Section 93.8a. Toxic substances. - Consistency with other regulations; Clarity.**

There are two incorrect citations.

First, the definition of "bioaccumulative chemicals of concern (BCCs)" in Subsection (j)(1) refers to a list of BCCs in federal regulations at 40 CFR Part 132 Table 6, Subpart A. However, the federal definition of BCCs at 40 CFR § 132.2 uses the term "section" rather than "subpart" in referring to "section A of Table 6" in 40 CFR Part 132. The final-form regulation should not use the word "subpart" in referencing Table 6 in 40 CFR Part 132.

A similar concern exists in Subsection (j)(2). It refers to 40 CFR Part 132, Appendix F, Procedure 3, Subpart D. The subsection incorrectly uses the term "subpart" in referring to provisions of Appendix F, Procedure 3. The federal regulations refer to the provisions of Procedure 3 in Appendix F as "sections." To avoid confusion, the subsection in the final-form regulation should not use the word "subpart" in referencing 40 CFR Part 132, Appendix F, Procedure 3. D (relating to deriving TMDLs, WLAs, and LAs for Point and Nonpoint Sources: WLAs in the Absence of a TMDL; and Preliminary WLAs for Purposes of Determining the Need for WQBELs for OWGL).